

(Conspiracy)

IN THE SHADOW OF LINCOLN'S DEATH

★ OTTO EISENSCHIML ★

AUTHOR OF "WHY WAS LINCOLN MURDERED?"

WAS there more than one plot to kidnap
or murder Lincoln?

WAS Booth killed or did he escape?

WAS Mrs. Surratt tortured before she was
executed as a conspirator?

HERE are new long-buried revelations fully
substantiated by documentary evidence!

*new revelations
on America's
most sorrowful tragedy*

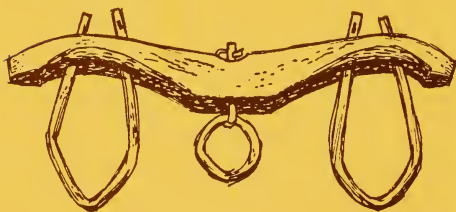
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IN THE SHADOW
OF LINCOLN'S DEATH



Books by Otto Eisenschiml

WHY WAS LINCOLN MURDERED?

REVIEWERS REVIEWED



WILFRED FUNK, INC. · NEW YORK

1940

IN
THE SHADOW
OF
LINCOLN'S
DEATH

BY
OTTO EISENSCHIML



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ACKNOWLEDGMENTS

I AM greatly indebted to Milton S. Pratiner of New York City for editorial help in arranging my data and for offering valuable suggestions for its presentation.

Grateful acknowledgments are also due to:

Paul M. Angle, who read the manuscript and whose criticism and advice was much appreciated.

Mr. W. H. Cathcart, Director of the Western Reserve Historical Society in Cleveland, for his help in procuring much of the information pertaining to Albert G. Riddle.

Mrs. Marcelyn Heath Clark, Mr. E. M. Corbin, Mr. D. A. Loomis, Burlington, Vermont, who did successful research on John Surratt's flight through the Burlington territory.

Mr. C. M. Cochrane, Davenport, Iowa, who supplied rare copies of the Washington *Sunday Gazette* containing the articles by Colonel William P. Wood.

Mrs. Evan M. Davis, Deerfield, Illinois; Mr. Charles E. Mason, Mr. Kenneth Chamberlin, Waukegan, Illinois; Mrs. Charles H. Watson, Evanston, Illinois; Mr. Frank L. Wood, Chicago, who helped me in tracing the life story of John W. Clappitt after he had settled in the Chicago district.

Mr. Wadsworth Doster, Pittsburgh, for his permission to study the literary estate of his father, General William E. Doster.

Mr. Walter M. Holden and Mr. John W. Curran, Chicago, who read some chapters of the manuscript and who shared with me their valuable knowledge and material.

Mr. Leonarde Keeler and Dr. C. W. Muehlberger, Chicago, who have given me generously of their time and knowledge.

Mr. Herbert A. Kellar of the McCormick Historical Association, Chicago, whose constant support has been of great help.

Dr. Otto Korpiolek, who covered photographically the route which John Surratt took from Veroli to Naples.

Mr. H. B. McConnell and Mr. L. Milton Ronsheim of Cadiz, Ohio,

who permitted me to study and use their extensive collection of Wiechmann and Bingham letters.

Professor R. Gerald McMurtry, of Lincoln Memorial University, who has never failed to send me pertinent facts whenever and wherever he found them.

Virginia Maier, for her untiring coöperation in collecting, assembling and evaluating the historical data used in this volume.

Ralph Newman, M. E. Northwall, Wright Howes, of Chicago, for their diligent efforts in procuring copies of rare books.

Mrs. J. M. Peddicord and Dr. Everett E. Watson, Salem, Virginia, from whom I received what was said to be hair from the corpse on the *Montauk*, and whose recollections of the late Dr. J. M. Peddicord were freely put at my disposal.

Dr. William Allen Pusey, whose deep knowledge of dermatology and whose kindness in introducing me to other experts in this field opened the way to a study of Booth's tattoo marks and their possible removal, as well as Booth's alleged freckles.

Forest H. Sweet, Battle Creek, Michigan, for his ceaseless search among rare manuscripts and for the relevant facts he supplied.

Dr. Max Thorek, Chicago, for reading the medical portions of my book and for many valuable suggestions.

Dr. C. S. Webb, of Bowling Green, Virginia, who turned over to me some of the hair which Miss Lucinda Holloway claimed to have cut from the head of the man who died at Garrett's barn.

James N. Wilkerson, of Kansas City, a close student of Booth's fate, with whom I have constantly exchanged views and whose material I have studied with interest and gratitude.

John Woodford, for valuable criticism.

Betty Breakstone, Sally Camerer, Meta Caminer, Blanche Novotny, Gladys Poll, who suggested many literary improvements in style and arrangement.

☆ II ☆

IT was the 14th of April, 1865. In Ford's Theatre at Washington Taylor's farce-comedy "Our American Cousin" was playing to a full house, with President Lincoln and his wife in attendance. The second scene of the third act was drawing to a close. Suddenly a shot rang out. The audience, thinking it was part of the play, paid little attention to it; but back-stage and in the orchestra pit startled looks were exchanged. The script did not call for the discharge of a pistol. Before anyone could give expression to his unnamed fear, a slim figure jumped from Lincoln's box and disappeared into the wings.

Through a haze of smoke Mrs. Lincoln could be seen bending over the prostrate body of her husband. Her cry, "Stop that man," shrilled through the house. Then there was pandemonium. Awe-stricken men first whispered and then cried aloud the name of the murderer: "John Wilkes Booth! John Wilkes Booth!"

The assassination of Lincoln, usually considered the spontaneous act of a madman, was in fact the culmination of several plots conceived to abduct the President, not to kill him. These plots were born, flowered under the surface for a time and then failed of fruition. If one of them had succeeded, Lincoln's life might have been spared; but they miscarried, and one furious and baffled conspirator turned murderer.

That Lincoln lived through four years in the White House without serious misadventure is remarkable; for he did have, indeed, some narrow escapes—

II

Lincoln Had Some Narrow Escapes

FROM THE moment Lincoln left Springfield on his trip to Washington in February 1861, many of his friends considered him in bodily danger. There was reason to expect a hostile outbreak in Baltimore, and the newly elected President was rushed through there at night. When Lincoln arrived in Washington, his close associates were still fearful for his safety. Major David Hunter, who had accompanied Lincoln most of the way from Illinois, organized a voluntary bodyguard and established its headquarters in the East room of the Executive Mansion. Marshal Ward Hill Lamon, who idolized his master and was watchful against danger, did not only apprehend assassination but also kidnaping. Rumors had come to his ears that in the last months of the outgoing administration fiery secessionists had planned to abduct Lincoln's predecessor, President Buchanan, and put Vice President Breckenridge in his place. When Lincoln moved into the White House, these hotheads, so Lamon thought, might turn their plot with stronger reasons against the new Executive for the purpose of seizing his person and holding him as hostage, "until such concessions were made to the Southern leaders as their plans of compromise rendered necessary."¹

All these fears eventually proved to be groundless. Month after month passed without mishap, and by and by all precautionary measures were abandoned. One year after his inauguration the President was wont to walk through the streets of

Washington or ride to his summer residence wholly unguarded. The summer residence was located at the Soldiers' Home about three miles north of the capital, and as the road led through a desolate section of the city's environs, it offered unusual chances for would-be attackers. But even Lamon's apprehensions had been dissipated after a year of vain watchfulness.

Lincoln was entirely unconcerned about his own security. He lived in the White House like any ordinary citizen in his home. A major on General Halleck's staff in the fall of 1862 noted "the utterly unprotected condition of the President's person and the fact that any assassin or maniac seeking his life could enter his presence without the interference of a single armed man to hold him back."² The doors of the White House were open at all hours of the day and very late into the evening. People walked up to the rooms of the President's private secretaries as late as nine or ten o'clock at night without being either seen or challenged. There were two civil servants in attendance, but their duties rested lightly on their shoulders. Halleck's staff officer frequently drew the attention of his general and that of Lincoln's junior secretary, John Hay, to the hazards of the situation, but failed to arouse their interest. Finally he approached Lincoln himself and described to him by way of contrast the precautions taken by commanding generals at military headquarters. Lincoln listened gravely, but shook his head.

"Ah, yes!" he said, ". . . such things do very well for you military people . . . But the office of President is essentially a civil one . . . I tell you, Major," he continued, "that I call . . . receptions my public-opinion baths—for I have but little time to read the papers and gather public opinion that way."³ He then added that to have guards with drawn sabers at his door would make people fancy that they were dealing not with a President but with an Emperor. The officer thereupon became more insistent and hinted that, if some protective steps were not taken,

assassination might result. Lincoln smiled and, with his hands locked across his knees and his body rocking back and forth in his chair, gave every indication that he was only amused.

"I have an insurance on my life worth half the prairie land of Illinois," he reckoned, and added that the Richmond people would not like Vice President Hamlin any better than himself. Moreover, if guards were placed at the doors of the White House, they would put ideas into the heads of would-be assassins; as to crazy folks, they might even be attracted by having it published that he was afraid of them.⁴

With which dictum the matter was put to rest.

In the summer of 1862 Lincoln traveled unattended and at all hours to his country residence near the Soldiers' Home, sometimes on horseback, sometimes by carriage. Secretary of State Seward also moved without protection and saw nothing unusual in this habit.⁵ But General Wadsworth, then military commander of the District of Columbia, foresaw possible trouble. He took it upon himself to provide Lincoln with a bodyguard consisting of some cavalry, whose special duty it was to accompany the President on his trips,⁶ in spite of his protests and thinly veiled disgust. One evening the President called after dinner at Halleck's private quarters to remonstrate, half jocularly and half in earnest, against his escort. The burden of his complaint was that he and Mrs. Lincoln could not hear themselves talk for the clatter of sabers and spurs.⁷ He then added with a smile that from the looks of the soldiers he figured he was in more danger through an accidental discharge of their weapons than through an attack by an enemy. When his protest was politely but firmly denied, Lincoln merely shrugged his shoulders and yielded, as he so frequently did in matters that seemed to him of no vital importance.

General Wadsworth was transferred to Burnside's army in December, 1862, and the discipline maintained up to then slack-

ened. Nevertheless, by September two companies of the 150th Pennsylvania Volunteers had been detailed as guards at the Soldiers' Home. The President's safety on his trips was entrusted to the cavalry of another command. Eventually, Company K of the Pennsylvania regiment became the permanent guardians of the Executive Mansion, a position held by them until the end of the war. Lincoln accepted their services with as good grace as he could muster, writing once with a fine touch of humor that the captain and his company "are very agreeable to me, and while it is deemed proper for any guard to remain none would be more satisfactory . . ." ⁸

A year later the guard service worked only intermittently. On June 30, 1863, Walt Whitman wrote in a letter:

Mr. Lincoln passes here (14th Street) every evening on the way out. I noticed him about half past 6—he was in his barouche, two horses, guarded by about thirty cavalry. The barouche comes first under a slow trot, driven by one man on the box, not servant or footman beside; the cavalry all follow closely after with a lieutenant at their head. . . . ⁹

On the other hand, General Butler found the President entirely unprotected a few weeks later. "In the late summer [1863]," he chronicled, "I was invited by the President to ride with him in the evening out to the Soldiers' Home, some two miles, a portion of the way being quite lonely. He had no guard—not even an orderly on the box." When Butler criticized this lack of precautions, Lincoln argued that assassination was not an American crime. He did promise, however, to accept a guard if Stanton would provide one. A guard was promptly furnished,¹⁰ and Butler took credit for the achievement.

During the summer of 1863 Governor Tod of Ohio had occasion to visit Washington and was shocked by the lack of protection accorded the President. He sought and obtained permis-

sion to organize as guard a detachment of Ohio cavalry which later became known as the Union Light Guard.¹¹

Tod had found only two infantrymen and four cavalrymen on duty at the White House. But even they were not permitted to challenge anyone, and their value therefore was problematic.¹² The Union Light Guard did not enter upon its duties until January, 1864.

In the meantime, the battle of Gettysburg had been fought, Vicksburg had fallen, and the more thoughtful in the Confederate ranks were beginning to lose hope. Desperate measures were needed to bolster their cause. It was then that attempts to kidnap Lincoln were first seriously discussed by Southern partisans. An effort was made directly after the Gettysburg campaign by some of the irregulars under General Mosby, whose raiders were constantly hovering around the outskirts of the capital. A half dozen of these daring riders actually made their way into Washington with the avowed purpose of capturing Lincoln. But, as one of them confessed afterward, "the blandishments of John Barleycorn were more than those thirsty warriors in butternut could withstand."¹³ Their conversations were overheard, an alarm was sounded, and Mosby's men were glad to escape before they were trapped.

Then came 1864 and Grant. A military decree, published by him, abruptly raised kidnaping from a madcap Confederate venture to an inviting war measure. Grant had decreed that the exchange of war prisoners must stop. With no further accruals to the enemy regiments through exchange of prisoners, the leader of the Union forces hoped to exhaust the man power of the South and thereby win a quick and comparatively bloodless victory. Any successful counterstroke against this threatening move on the military checkerboard would bring its sponsor un-

dying glory. The kidnaping of Lincoln was one move which might checkmate Grant's strategy.

After three years of warfare the exchange of prisoners had become a routine matter. It was still based on certain rules laid down in a cartel on July 22, 1862, signed by Generals John A. Dix and D. H. Hill for their respective armies. A lieutenant, by mutual agreement, was rated as equal to six privates; a captain was worth fifteen, a major general forty, a general in command sixty.¹⁴ No value, of course, had been put on the heads of the Presidents who were commanders-in-chief of both army and navy. Would not Lincoln as a captive be worth all the tens of thousands of Confederate prisoners in the Northern camps?

There is little doubt that the thought of capturing Lincoln originated with several people simultaneously. John Wilkes Booth, a young tragedian who loved the South passionately, but who had promised his mother he would not become a soldier, was one of those who were stirred into feverish action. By holding Lincoln as hostage for the exchange of an army, he would serve his country better than by fighting. To many, the abduction of a President from within his own capital may have seemed preposterous. On closer analysis, though, it would be found entirely practical. If executed with boldness and speed, it could succeed. Nevertheless, careful preparations had to be made, and Booth at once set out to lay the groundwork for his enterprise.

The best opportunities to effect Lincoln's seizure were furnished by his frequent trips to the Soldiers' Home. Booth selected a lonely spot outside the capital for the attack; but he had alternate plans also.¹⁵ One of them was to capture Lincoln on one of his visits to a hospital across the Anacostia bridge; another was to abduct him while attending a theatrical performance. Both schemes were abandoned after due consideration. The President's trips across the Potomac were taken too irregularly, and the romantic scheme to seize the President inside a play-

house found no favorable response among Booth's more practical-minded companions.

One of the problems confronting the kidnapers was the selection of a proper route for carrying their captive into the Confederacy. There were two obvious possibilities from which to choose. One likely road led from Washington to the upper Potomac and south through the Shenandoah Valley or the country east of it. The other was by way of the lower Potomac along what was known by the natives as the doctor's route, so called because it was used for the distribution of contraband mail by country physicians of Southern sympathies whose duties shielded them from close supervision. Booth finally gave preference to this latter route and traveled extensively in lower Maryland under the pretext of buying farm property, but in reality to familiarize himself with every road and byroad.¹⁸ If successful, Booth would have carried Lincoln through Surrattsville, T. B. and Bryantown to Port Tobacco on the Potomac, where boats were constantly kept in waiting for the illustrious prisoner.

Booth's companions have often been described as mere rabble; as a matter of fact, they were well chosen for their peculiarly valuable qualities as kidnapers. Assassination was not yet thought of at that time. John Surratt, the only one of Booth's helpers who had both intelligence and breeding, was an expert handler of horses and had an intimate knowledge of southern Maryland, where he had often traveled as a Confederate dispatch bearer. Lewis Paine, the former Florida soldier, with his gigantic strength, was to have subdued the powerful Lincoln. Herold, insignificant boy though he was, had spent many a day hunting among the crossroads of the Potomac country and knew strange hiding places with which even Surratt was not acquainted. The uncouth Atzerodt owned a boat at Port Tobacco and was well versed in illicit traffic. Samuel Arnold and Michael O'Laughlin

were trusted schoolmates of Booth and had served under Lee as good and obedient soldiers.

Toward the end of 1864 the groundwork of the plan had been completed. No great secrecy seems to have been observed by the conspirators, for rumors of the proposed abduction had spread widely among the secessionist inhabitants of the district. Among others, a Confederate mail agent in southern Maryland named Thomas A. Jones had heard of the plan.¹⁷ The President, he understood, was to be seized during his customary evening drive toward the Navy Yard, either chloroformed or gagged, and driven quietly out of the city. If the carriage should be stopped while crossing the Navy Yard bridge, the captors would point to the President and drive on. The carriage was to be escorted out of the city by men dressed in Federal uniforms. Relays of fast horses were in readiness all along the route, and a boat in which to take the captive across the Potomac was kept on the west side of Port Tobacco Creek, about three and a half miles from the town of the same name.

In Jones' opinion, the carriage containing the abducted President, once clear of Washington, could not be overtaken. The distance to be traversed was only thirty-six miles, and while the kidnapers had relays of fresh horses waiting for them, the pursuers would be without such preparations. Moreover, ropes were to have been stretched across the roads, trees felled and other obstacles placed in the way of any rescuing party.

Others were aware of Booth's plans. A farmer named Bryan, living on the Virginia side of the Potomac, told a reporter later that he had known all about the plan of abduction and the part he was expected to take.¹⁸ Bryan had belonged to Mosby's men, and his company was to be stationed at that point of the river where the conspirators were to cross. Mosby's raiders, he believed, would have been strong enough to take care of any small number of men sent in pursuit. He thought the road had been so

well chosen and the people throughout southern Maryland were so loyal to the Confederate cause, that no fear of interference from that quarter need be entertained.

The time chosen for the execution of Booth's scheme was the first half of January 1865. A cotton broker named Martin, who happened to be in Port Tobacco at that time, testified that Atzerodt would not carry him across the Potomac because he expected to transport a more important party.¹⁹ John Surratt left his employ on January 13 so abruptly that he didn't even draw his pay.²⁰ Sam Arnold also expected the climax about that time.²¹ The actor Samuel K. Chester, to whom Booth had assigned the part of turning off the gas in the theatre, should the abduction take place there, was wanted in Washington in January of that year. Although no details were vouchsafed him, he was invited to participate in a "plan that could not fail".²²

Yet, the plan that could not fail was never even put to a test. An extremely mild winter had left the roads impassable and, as the kidnaping party could not afford the risk of becoming mired before crossing the Potomac into Confederate territory, the execution of the plot had to be abandoned for the time being.

How many other of his enemies intended to kidnap Lincoln will probably never be known. There is definite proof, however, that the idea had not occurred to Booth alone. In fact, he and his little band constantly suspected that others were plotting along similar lines.

John Surratt asserted in 1870 that there had been a rival conspiracy afoot in Washington five years before. One evening, as he was lying down in the reading room of the Metropolitan Hotel, two or three gentlemen came in and commenced to talk mysteriously about an expedition which was about to be undertaken.

"We didn't know what they were after, exactly," Surratt

said,²³ "but we were well satisfied that their object was very much the same as ours." The identity of those whom Surratt overheard has never been discovered. That their intrigue was important may well be questioned. Only dilettante conspirators would have discussed their plans audibly in the public parlor of a Washington hotel.

Yet Booth and his associates were correct in their surmise that someone else was running them a close race. At the head of another party which meant serious business was a man named Thomas N. Conrad, a famous Confederate scout, who had worked out the details of a kidnaping plot with another scout named Mountjoy while their command had been at winter quarters on the Chickahominy in 1863.

Their contemplated plan of action closely paralleled that of the Booth group.²⁴ They also had selected the lower Potomac route and had decided to intercept the Presidential carriage near the Soldiers' Home. This resort was surrounded by a large acreage of old trees, and the grounds contained beautiful winding driveways. The Fourteenth Street entrance, through which the President's carriage usually approached, was admirably adapted for the attack, so Conrad decided.²⁵ The Confederate scout also had chosen his help with care, and his band closely resembled that of Booth. Where the latter needed Paine for his brutality, so Conrad relied upon a big, rawboned athlete named Frizzell. Both Paine and Frizzell had been prisoners of war and had received rough treatment; they could therefore be expected to be eager for an act of vengeance. Conrad's driver was a man named Williams, and the description he gave of him could well have fitted that of Surratt.

"He was six feet in height, straight as an arrow, twenty-three years of age, and when with me was as bold as a lion . . . His loyalty . . . could not be questioned. I wanted him on this occasion to mount

the seat upon which Mr. Lincoln's driver sat and, with pistol in hand, to make him obey my orders" . . .²⁶

Conrad's well-laid plan miscarried. The President, whom the Confederate scout had never before known to travel under escort during weeks of waiting, suddenly changed his routine and moved under military protection. The change took place on the very day the plot was to have been executed.

"Imagine my astounding surprise and total collapse," he wrote, "when we beheld the carriage of Mr. Lincoln moving out of the grounds of the White House preceded and followed by a squad of cavalry."²⁷ Conrad was convinced that no one of his party had betrayed his plans. What had caused this unexpected obstacle to be thrown in his way, Conrad never knew; but he believed to his dying day that if he had acted a day sooner he would have succeeded.

Conrad had one advantage over Booth. Had he abducted Lincoln on a dark night, he could have hurried him across the Treasury Park south of the White House to a vacant home near the Potomac River, where he had often been in hiding on his scouting missions. This was the old Van Ness mansion in the rear of the War Department. It was surrounded by a high brick wall with a large iron gate and, being several blocks away from the main streets of Washington, served as an admirable rendezvous for Southern sympathizers throughout the war. Its owner, Colonel Green, was an old Virginian who had two sons in the Confederate army. The porter's lodge of his home was used as a secret post office where messages were dropped and called for at regular intervals.²⁸

After Booth's abortive attempt in January, 1865, months passed without an opportunity to repeat it. "We seldom saw one another," stated one of the plotters, "owing to the many rumors

afloat that a conspiracy of some kind was being concocted . . .”

Then the long-delayed chance came. “One day we received information,” John Surratt recalled, “that the President would visit the Seventh Street Hospital for the purpose of being present at an entertainment . . . the report only reached us about three-quarters of an hour before the time appointed . . . This was between 1 and 2 o’clock in the afternoon.”²⁹

The carriage was to be halted and directed south over Benning’s Bridge, which was not guarded. Everything was in readiness. Arnold and O’Laughlin had preceded the party to intercept the carriage, should the driver try to escape by whipping up the horses. Herold was at Surrattsville, ready to add ropes and other necessary material when the prisoner should reach there. Booth, Surratt and Paine were to effect the capture.

The carriage drew near; one can visualize the trembling suspense of the conspirators, as every step of the horses, every turn of the wheels, brought them closer to the great moment which would make them famous, envied, rich. But the moment came, and passed unsung into history. For some reason never made known, Lincoln had sent someone else in his stead to see the performance of the afternoon. Did a slight cold beset Lincoln and cause his wife to keep him at home? Did a sudden premonition warn him of impending danger?

The man in the carriage was not molested, and the small band of crestfallen, angry plotters scattered. Thus, on or about March 20, 1865,³⁰ ended the last and most promising attempt to kidnap a President of the United States.

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The various conspiracies to abduct Lincoln did not escape notice by the secret service. Only two people, however, were worried enough to take definite countermeasures. These two

people were Mrs. Lincoln and Marshal Lamon. In the fall of 1864, when Conrad's plot came uncomfortably close to success, it was probably the President's wife who aroused the mounted guard to a stricter attention to duty. The escort was cautioned to be extremely vigilant, not only on the trips to and from the old Soldiers' Home, but to be prepared for any disturbance in the vicinity during the night. In fact, the whole company was for a time kept under arms with horses saddled. But Mrs. Lincoln was not satisfied even with these precautions. After the family had returned to the White House for the winter, she privately requested that a detail from the Union Light Guard should be stationed in the Executive Mansion each night, without Mr. Lincoln's knowledge. Her wishes were respected, of course, and members of the squad were assigned to the house.³¹ These arrangements could not be kept from the President for any length of time, and Lamon therefore decided to install a system of personal bodyguards who were to be with Lincoln day and night and accompany him where mounted men could not follow.³² So it came about that four men were drafted from the ranks of the Metropolitan police force in November, 1864, and remained on duty until Lincoln's death.

The President's failure to coöperate with any arrangements for his own safety was a matter of grave concern to his entourage. Fifty years later some of the surviving telegraph operators still remembered how "he terrified them all by his careless habits . . .", as Clara E. Laughlin wrote after interviewing them.³³ Even Lamon, who watched over Lincoln with all the care of a loving friend, could not overcome his Chief's passive resistance.

"It was impossible . . . to induce him to forego these lonely and dangerous journeys between the Executive Mansion and the Soldiers' Home," he complained. "A stranger to fear, he often eluded our vigilance . . ."³⁴

The trips to the Soldiers' Home were not the only sources of threatening dangers. Even more risky perhaps were the short walks Lincoln took to the War Department almost every evening. The distance was only about an ordinary city block, but the densely shaded passageway ran along the north side of a brick wall about four or five feet high and was only dimly lighted by a few flickering gas jets.³⁵ One of the cavalymen on duty opined that kidnaping the President on one of these nightly strolls would have been practicable.³⁶

Noah Brooks, a newspaperman much devoted to the President, once remonstrated with him after the two men had walked together from the War Department to the White House.

"I could not help saying," Brooks reported, "that I thought his going to and fro in the darkness of the night, . . . often alone . . . was dangerous recklessness. That night, in deference to his wife's anxious appeal, he had provided himself with a thick oaken stick. He laughed as he showed me this slight weapon . . ." ³⁷

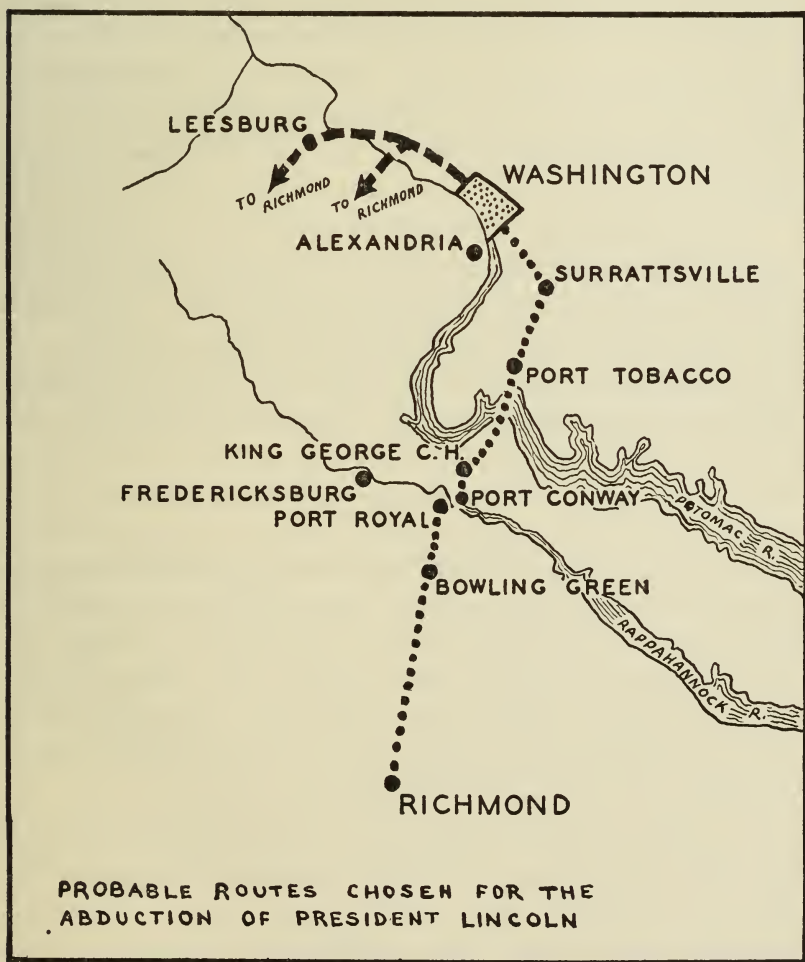
Lincoln never was attacked on these short walks in the dark, although vague stories that he had had some close calls in his own grounds were circulated after his death. Major Eckert, one of Stanton's confidants, even claimed to have received the confession of a murderous attempt there by the conspirator Paine. The attack was said to have been planned for one frosty night in the winter of 1864-1865.³⁸

On another occasion a messenger of the War Department named Hatter accompanied Lincoln from Stanton's office to the White House. He heard a man running away and next morning found that part of the fence around the War Office had been removed. Lincoln asked Hatter to keep the matter quiet, but the latter did report it to Stanton, who said he had already heard of the occurrence and apparently was not greatly disturbed.³⁹

A successful abduction of the President by his enemies would

not have been contrary to the laws of civilized warfare. This was conceded by observers on both sides of the Mason-Dixon line.

"It is a common, well known fact," wrote the New York *Herald* on June 20, 1867, "that the abduction of Lincoln was projected and discussed in the southern papers two or three years before his death. Such a plan was regarded at that time as



fair game. It was not very vehemently discouraged, and there was very little blame attached to the idea, even in the North."

Nevertheless, the Confederate government never became involved in any kidnaping plans. More likely than not, Jefferson Davis would have vetoed them had he known of their existence.

When John Surratt lectured in later years, he stated plainly that the planned abduction of Lincoln had been "concocted without the knowledge or the assistance of the Confederate government. . . ." ⁴⁰ Surratt even confided to Booth his fear that the Richmond authorities might surrender the successful kidnapers to the United States together with their prisoner.

The Confederate scout Conrad was equally emphatic in his denial.

"Neither President Davis nor his secretary of war," he asserted, "had any knowledge of my contemplated attempt to capture Mr. Lincoln and bring him to Richmond. I consulted only the military secretary of General Bragg . . . This . . . secretary enjoined me, above all things, not to hurt a hair upon Lincoln's head, or treat him with the slightest indignity." ⁴¹

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Although Lincoln was indifferent to any possible dangers of abduction or assassination, he was aware of them and sometimes discussed them with Marshal Lamon. Strangely, he actually entertained suspicions against two persons, but chiefly against Adam Gurowski, a Polish count who, after a checkered career leading through Russian prisons and a professorship at a Swiss university, had come to the United States in 1849.

". . . From the known disposition of the man," Lincoln once said, "he is dangerous . . . I have sometimes thought that he might try to take my life. . . ." ⁴²

Lincoln was wrong. Not a shadow of suspicion touches

Gurowski, and if Lincoln had been more familiar with this type of European theorist he would have harbored no fear of him. Gurowski was, in spite of an outward appearance of ferocious bravery, nothing but a shrinking coward. Gideon Welles in 1862 still described him as "Brave . . . without doubt, a rude, rough Polish bear . . .",⁴³ but two years later he changed his views. Welles had arranged a party, but had not invited the count, and Gurowski exhibited uncontrollable rage at this slight. A few days later the two men met. The Secretary of the Navy undoubtedly thought himself in peril; but, so he told his diary, "he [Gurowski] saw and recognized me, seemed to be embarrassed . . . dropped his head and, turning off . . . he went far around, with his head bent over, shame and passion in his countenance."⁴⁴

Morally, Gurowski was even a worse coward. He had written a diary, "in horrid style and bad English," Welles thought, ". . . abusing in clumsy language almost all public characters." For that the District Attorney of Washington had him indicted for libel. Gurowski offered an astounding defense: he refused to concede authorship of the book, although he had bragged about it months before its publication. When questioned on the witness stand the valorous count, in spite of hecklings and near-insults, would not open his mouth.⁴⁵

Lincoln's other suspect was a man whom he accidentally met one night in the War Department. Thomas Pendel, then one of the bodyguards, had just left Stanton's office in company with the President when, about half way down the stairs, they met a man coming up who scrutinized Lincoln intently. He was thick-set, and wore a gray suit. Then the President did something unusual—he looked at the stranger very closely, as if trying to fix his features on his memory. When Lincoln was alone with Pendel, he said,

"Last night I received a letter from New York stating that

there would be a man here who would attempt to take my life. In that letter was a description . . . The man we just passed agreed exactly with the description . . .”⁴⁶

There was no “thick-set man” in Booth’s band. Surratt was too slim to fit any such description. The others all had outstanding characteristics which would have struck an observer more poignantly than their builds—Booth with his beauty, Paine with his defiant eyes, Atzerodt with his head wedged between stooping shoulders and Herold with his vacant expression. Furthermore, Pendel certainly was asked to look over all the suspects gathered in after the assassination, and he obviously did not find the “thick-set man” among them.

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Marshal Lamon, in constant anxiety about the security of his beloved master, believed that Booth had originally planned the murder of the President for March 4, 1865, during the second inauguration. Lamon related that the young actor had tried to break through a cordon of policemen to get at his victim, but had been restrained by a Capitol guard named Westfall.⁴⁷

There exist many affidavits showing that Booth really tried to break through the police cordon during the inauguration ceremonies.⁴⁸ Nevertheless, Lamon’s opinion that the tragedian contemplated assassination on that occasion is open to doubt. It is known that Booth had obtained tickets through the daughter of Senator Hale, that he used them and that he sat only a few feet from Lincoln while the latter delivered his address.⁴⁹ If he had intended to assassinate the President, a scuffle with the Capitol guards would have been the worst possible blunder. Besides, on March 4 Booth still had faith in his kidnaping plot. Lee’s army was yet unbeaten and an exchange of prisoners a worthwhile goal. Investigation would probably have shown only that Booth

was late for his appointment and tried to reach his seat hurriedly and in an unorthodox manner.

Further evidence that Lincoln was not in danger from Booth on March 4 was furnished by sworn testimony two years later. Louis Wiechmann had seen Booth on inauguration night and testified that he had shown neither excitement nor any other emotion; but when Wiechmann had seen the actor after the abortive kidnaping attempt, "Booth was so excited that he walked around the room . . . frantically . . ." ⁵⁰

The details of this incident on inauguration day were withheld from the press "for prudential reasons," according to Lamon.⁵¹ It seems that Lamon shouldered a tremendous responsibility by withholding pertinent and important information not only from the press but from Lincoln as well. For when Lamon left for Richmond two days before the assassination he went to Lincoln and begged him to promise not to go out after nightfall, *particularly not to the theatre*.

What did Lamon know that he never told? How much did he suspect?

Booth's plot was the only one which had any connection with the theatre. Lamon might have known of Booth's miscarried plan of abduction. If he did, why was he not more outspoken? Lincoln was no simpleton and had shown on the previous occasion of his trip through Baltimore in 1861, that he would heed warnings, provided they were based on something more tangible than mere generalities. If Lamon had taken Lincoln into his confidence, the tragedy at Ford's Theatre might have been avoided.

☆ III ☆

ONE of the most amazing features of Lincoln's assassination is that it was talked about as an accomplished fact, yes, was even published in newspapers, before it happened. Instances of this kind were found in widely separated parts of the country—

II

Vox Populi

ON THE morning of the fatal April 14, 1865, twelve hours or more prior to the tragedy at Ford's Theatre, people in the New Hampshire town of Manchester openly spoke of Lincoln's assassination as an event of the past. At that time no one paid much attention to the report, but soon afterward it loomed large in the eyes of the secret service. Could it be possible that the ramifications of the murder plot reached all the way into that New England town?

A diligent provost marshal at Concord took charge of the case. He traced the report to a man named John Morrison who, unfortunately, had just left for Wilmington, North Carolina. Efforts to find him there proved unsuccessful. What made this development look still more ominous was that Booth had been in Manchester a short time previously and had a relative by marriage living there. But here the story ends, so far as the archives of the War Department tell it.

Manchester was not the only place in America which could boast of having known of Lincoln's assassination in advance of the tragedy. St. Joseph, Minnesota, might have put in a claim for a share of the honor, if such it was. According to Father Chiniqui, a former Catholic priest, who later devoted much effort to prove that Lincoln's assassination had been the outcome of a Jesuit plot, this premature knowledge of the crime was more than oracular.¹

"I present . . . to the world," the ex-priest proclaimed, "a fact of the greatest gravity, and that fact is so well authenticated that it cannot allow even the possibility of a doubt.

"Three or four hours before Lincoln was murdered in Washington, . . . that murder was not only known by some one, but it was circulated and talked of in the streets, and in the houses of the priestly and Romish town of St. Joseph, Minnesota. . . . there were no railroad nor any telegraph communication nearer than 40 or 80 miles from the nearest station . . ."

To Chiniqui the answer to this riddle was plain: ". . . the priests of Rome knew and circulated the death of Lincoln four hours before its occurrence . . . But they could not circulate it without knowing it, and they could not know it, without belonging to the band of conspirators who assassinated President Lincoln."

Thus the author of *Fifty Years in the Church of Rome* concluded that the guilt of the priests who had "circulated the death of Lincoln" before it occurred stood proven. Perhaps he would have been less certain had he known that Middletown, New York, also had heard of the tragedy prior to its happening.

On Friday, the 14th, at 2:30 p.m., so a writer in the Middletown *Whig Press* asserted, he had been informed that the President was shot and that "it was currently so reported in the village of Pine Bush, in the town of Crawford, before 12 o'clock, M., of that day."

Did that not evidence a widespread conspiracy, the editor asked? Was the report predicated upon a knowledge of what was to be done? Had some of the "Sons of Liberty", that secret order of anti-war Democrats, let the matter out prematurely?

The Newburgh *Journal* confirmed the facts reported in the *Whig*, but was more conservative in its editorial opinion.

"Whether it is actually the fact that Rebels there [in Pine Bush] had knowledge of the plot, or whether it was one of those

rumors which start and are carried no one knows how, the reader can judge for himself . . .”

A well-known surgeon of high standing in an unnamed New England town who had been in the enrollment service, reported a similar strange incident.²

“. . . I found,” he wrote two years later, “the death of the President had been currently reported since noon the day previous, some ten hours before it . . . occurred. . . . a large number of affidavits were taken, showing that parties here were so sure the President would be shot that the report became public . . . in advance of the catastrophe.”

General Butler’s committee on the assassination, in 1867, sifted whatever evidence of conspiracies there was, but came to no definite conclusion. It listened to much irresponsible gossip, such as that a Maryland man had heard in February, 1865, of Lincoln’s threatened assassination during his inauguration; a man in York, Pennsylvania, had made a bet that Lincoln would be murdered; a citizen in Bolivar, Missouri, had predicted dire happenings to the President a few days before his death. There was more of such drivel, all of the same character. If these reports proved anything at all, they proved that a personal attack on Lincoln was easy to imagine. Apparently almost everybody envisioned it, except those who were responsible for the President’s safety.

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If the rumor mills were busy grinding out stories of Lincoln’s death before it happened, they naturally were still busier after the event. People recognized Booth on the streets of the capital, on trains in Pennsylvania and at other less likely places. Several innocent persons were arrested and probably considered themselves lucky to stay under police protection until their true

identity could be established. The authorities heard many unusual stories and were asked to follow many quaint clues.

Here is what one man told the military detectives of Alexandria:

Two days after the assassination, a man drove up to his farm outside of Washington and asked for something to eat. He first drank a quart of milk and then asked for eggs. The farmer's wife gave him six. He asked for more and ate another half dozen. The stranger then became excited and looked out of the window, in the meantime eating three more hen's eggs and two large goose eggs. In all, he ate seventeen raw eggs and then declared he was almost crazy. He intimated that he knew something about the assassination, having stood within ten feet of the President when he was shot. Then he jumped up suddenly and asked for his bill. When he was told it was thirty-five cents, he threw down fifty cents and hurried away.

A postmaster at Detroit, a former member of Congress, imparted this priceless bit of information which he had received through a medium: Booth was secreted in a hogshead under Ford's Theatre among some old barrels. If the spirits were to be trusted, actors were feeding him.

One Silas S. Jones of West Troy was still more imaginative. "From information in my possession," he wrote to the War Department, "I believe J. W. Booth to be secreted in the city of Chicago, Ill., . . . in a house of ill fame . . . disguised as a female." He closed by saying that "this may be the means of causing the arrest of the assassin."

One of the queerest reports was submitted by a Washington printer named Hill who knew Booth by sight. About two weeks after the assassination, as he was walking down E Street, between Eleventh and Twelfth, he saw a person in the garb of a woman, with a crutch under one arm. He took this person to be an acquaintance of his named Kate Robinson and accosted her.

"Kate," he asked, "when did you get hurt?" The supposed Kate turned her head, and Mr. Hill, horror-stricken, recognized J. Wilkes Booth. What was still more puzzling was that the cripple suddenly vanished after this meeting, and Hill had no idea what had become of him.

A woman canvasser named Shine wrote from St. Louis that she was a natural born detective "of keen aprehension" ready to "ferry out" all enemies of the government. She suggested that the regular detective force, who were known to Booth, would never catch the criminal, but that she might. It is not recorded whether Mrs. Shine's ambition to become a sleuth was gratified.

With so many suspects in the clutches of the government, it proved a difficult task for the authorities to examine them adequately. Hence, one Dr. Charles E. Cady, a military surgeon, recommended a novel method for obtaining confessions. During his three years' experience in the army, he had upon numerous occasions procured from Rebel officers much important information while they were partially under the influence of chloroform, information which they had positively refused to communicate in their normal state. The worthy doctor had even figured out the exact method of procedure. He respectfully advised that the experiment be conducted by men thoroughly skilled in the administration of chloroform and in a large room free from furniture. The patient was to be placed flat on his back with his head slightly elevated. Two or three windows were to be thrown open so as to insure perfect admixture of air with the vapor of the anaesthetic. Pure unadulterated chloroform was then to be carefully but rapidly administered, and while the patient was in a semiconscious condition, he was to be questioned bluntly and pointedly.

From Lafayette, Indiana, advice was received that Booth was lying concealed near the town of Middleburg, Virginia. The

clairvoyant making this revelation went into great details. "A little northeast of the Town House," he wrote, "there is a one story building, cottage style, with a very steep roof. In front of the house is a garden laid out in squares, and the man of the house is tall and straight, has a sandy complexion and sore eyes."

It would have been unfair to expect a more explicit description of Booth's hiding place. The correspondent had had previous experience in foretelling things, but unfortunately, so he added ruefully, he had been put into prison for some of his predictions.

A woman who signed herself "Justice" warned Secretary Stanton to be vigilant. Booth might be the darkey that washed his dishes or the old lady who was knitting in an easy chair. Perhaps he even was disguised as a sick woman with cap and night-gown, apparently bedridden.

Not all communications received by the War Department were mere trash. One H. C. Young, of Cincinnati, wrote on April 20 that he desired to contribute his share towards catching the villain Booth. He had attended the actor while sick at the Burnett house a year previously, and he now wanted to record that the young actor had several scars on his arm and body and one on the forehead. He also added that he had the initials J.W.B. in India ink on one of his hands near the thumb.

So far as is known, none of the letter writers were ever favored with a reply, and in their hopes for local fame they were doomed to disappointment. The capture of several real conspirators and others whom the government so designated, helped to dry up the source of this type of correspondence. By May, 1865, the influx of letters to the War Department had dwindled to a mere trickle, and by June of that year it stopped altogether, thus bringing this chapter of American history to its natural close.

☆ IIII ☆

AFTER his bloody deed in Ford's Theatre, John Wilkes Booth fled into Virginia and was traced to a farm near Port Royal. A pursuit party of Union soldiers, led by two detectives, surrounded the little out-house in which the fugitive had taken shelter and, so the official report declared, shot him to death. While the body was being taken to Washington, strange rumors traveled ahead of it. The remains, it was whispered, were not those of Booth. Yet, someone's body was identified as that of the assassin—

III

A Body Is Identified

THE OFFICIAL telegram announcing Booth's alleged death was short and to the point.¹

WAR DEPARTMENT, Washington,)

Thursday, April 27—9:20 a.m.)

Major-Gen. DIX: J. Wilkes Booth and Harrold [Herold] were chased from the swamp in St. Mary's County, Maryland, to Garrett's farm, near Port Royal, on the Rappahannock, by Col. Baker's force.

The barn in which they took refuge was fired.

Booth, in making his escape was shot through the head and killed, lingering about three hours, and Harrold was captured.

Booth's body and Harrold are now here.

EDWIN M. STANTON, Secretary of War.

The body of the victim at the Garrett farm had scarcely reached the capital, when rumors became current that the corpse was not that of Booth. The *Constitutional Union*, an opposition paper, published a statement to that effect,² and the story was greedily absorbed by a sensation-hungry public. Even staid citizens were aware of it.

"After the death of Booth," wrote Dr. John Frederick May, a leading surgeon of Washington, "strong doubt existed whether the body brought to the Navy Yard at Washington was that of the man who had assassinated the President. In fact, *it was*

*openly asserted it was not his body. . . . That great uncertainty was felt . . . at the time . . . and long afterwards, as to the identity of his body, is notorious.”*³

England also heard these reports. “There is a rumour (probably without foundation),” wrote Sir William Hardman in his memoirs during May, 1865, “that the man who was shot was *not* Wilkes Booth!”⁴

Official cognizance of the uncertainty surrounding the body was taken as late as 1867, when a Congressional investigating committee examined Secretary Stanton.

“Have you any reason to believe that Booth is not dead?” he was asked.

“None whatever,” Stanton replied. “I had a board to inspect and examine his body when it was on the iron-clad . . . They reported that it was the body of J. Wilkes Booth.”

But Mr. Eldridge, a Democratic Congressman who did the questioning at the moment, did not seem entirely satisfied. When the interment of the corpse was under discussion, he asked again,

“There was nothing about the identity of Booth that entered into your consideration in making the burial a secret?”

“Nothing whatever,” Stanton replied. “It was done simply and solely for the purpose of preventing him being made the subject of rebel rejoicing.”⁵

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Upon arrival of the body, Secretary of the Navy Welles, presumably acting jointly with the War Department, designated a number of persons who were to proceed to the gunboat *Montauk* where the body lay, in order to hold an inquest. They were Surgeon General Barnes with an assistant; Judge Advocate General Holt with his aide John A. Bingham; Major Eckert

and William Moore of Stanton's staff; Colonel L. C. Baker with the two detectives, L. B. Baker and Conger, who had headed the successful pursuit expedition; an official photographer with an assistant; and finally Charles Dawson, a clerk in the National Hotel of Washington.⁶

The inquest over the body was duly held.

The first witnesses examined were an acting master in the United States Navy by the name of William Wallach Crowninshield, and the captain's clerk and signal officer aboard the *Montauk*, Charles M. Collins. Crowninshield, who had known J. Wilkes Booth only a month and a half, felt satisfied that it was the body of the young actor, but in describing him, made him five feet nine and three-quarters inches tall.⁷ This unusual attempt at accuracy throws doubt on his testimony. The official reward posters gave Booth's height as five feet seven or eight inches, and Assistant Secretary of War Dana described him as about five feet six inches tall.⁸ All who had known Booth were aware of his short stature, which had marred an otherwise perfect stage presence.⁹

Mr. Collins volunteered the information that he had immediately recognized Booth, although he had known the actor for only six weeks. The body had been brought aboard at two in the morning, lighted solely by flickering torches, and furthermore, the countenance had changed considerably as a result of exposure, as was attested by most of the other witnesses.¹⁰

The austere Judge Advocate General Holt himself, a veteran of many courts-martial and military commissions, questioned Charles Dawson, clerk of the National Hotel in Washington, where Booth had stayed frequently. Dawson stated that he had been intimate with Booth but, he added cautiously, no more so than with any other guest in the hotel. Holt asked:

"Have you just examined the dead body which is claimed to be that of J. Wilkes Booth, on board of this vessel?"

"I have. . . . I distinctly recognize it as the body of J. Wilkes Booth—first, from the general appearance; next, from the India ink letters "J.W.B." on his wrist, which I have very frequently noticed; and then by a scar on the neck. I also recognized the vest as that of J. Wilkes Booth."

Dawson was then asked: "On which hand or wrist are the India ink initials referred to?"

"On the left."

This was vital and interesting testimony indeed. Here was a man who had seen Booth a great number of times and should have been able to identify him. Moreover, he claimed identification not by a mere recognition of the features, a purely subjective opinion, but by two distinct physical characteristics open to verification—a scar on the neck and initials on the wrist.

The presence of the initials, if identical in form, size, color, intensity and location with those Dawson had observed on Booth when he was alive, should have settled all controversy as to the identity of the body. Unscrupulous detectives, if they knew of this tattoo-mark, might have imprinted it themselves to get the rewards offered, but they would not have been able to mislead Dawson, who was familiar with the markings and had often chided the actor for thus disfiguring his hand.

Unfortunately, Dawson's identification of the India ink initials is not unassailable. A witness who heard the clerk's testimony remembered that Dawson had placed the tattooed letters on the right hand, and not on the wrist, but at the junction of thumb and forefinger. Of course, this witness himself may have remembered Dawson's testimony incorrectly.¹¹ More important is the fact that the Provost Marshal General of Maryland, J. L. McPhail, wiring to Stanton from Baltimore on April 26, had described these marks altogether differently.¹²

Sir: The following marks are upon the person of Booth by which he may be recognized: *On his right arm are the initials of his name,*

I was finally enabled to ^{imperfectly} recognize the ~~characteristic~~ features of Booth. But never in a human being had a greater change taken place, from the ^{man} ~~man~~ I had seen ~~in~~ ⁱⁿ the vigor of life and health, as ~~that~~ ⁱⁿ that of the haggard corpse ~~which~~ ^{which} was before me, in its yellow ^{and} discolored skin; its unkempt unmatted hair; and its whole facial expression sunken and sharpened, by ~~the~~ ^{the} ~~effects~~ ^{effects} of starvation it had undergone!

The ~~right~~ ^{right} lower limb was greatly contused, and perfectly black from a fracture of one of the ^{bones} ~~bones~~ of the leg.

An autopsy was then made by the assistance of General Barnes, which proved that the bullet which killed him, had passed between two of the vertebrae of the neck, causing fracture, and lesion of the spinal cord.

~~It was~~ ^{It was} ~~found~~ ^{found} ~~that~~ ^{that} ~~the~~ ^{the} ~~bullet~~ ^{bullet} ~~had~~ ^{had} ~~passed~~ ^{passed} ~~between~~ ^{between} ~~two~~ ^{two} ~~of~~ ^{of} ~~the~~ ^{the} ~~vertebrae~~ ^{vertebrae} ~~of~~ ^{of} ~~the~~ ^{the} ~~neck~~ ^{neck} ~~causing~~ ^{causing} ~~fracture~~ ^{fracture} ~~and~~ ^{and} ~~lesion~~ ^{lesion} ~~of~~ ^{of} ~~the~~ ^{the} ~~spinal~~ ^{spinal} ~~cord~~ ^{cord}.

The body was secretly and at night, buried in the yard of the Penitentiary, which was not generally known for some time afterwards.

and on his left hand, *between the forefinger and thumb, a small cross*, and across the same hand several spots, all in India ink.

Bainbridge, a Confederate soldier, who had been in the assassin's company before he reached Garrett's farm, recalled twenty-four years later that the "initials 'J.W.B.' [were] done in Indian ink on his *right* hand."¹³

Nevertheless, an important corroboration of Dawson's testimony was furnished many years later by a former sergeant of marines named John M. Peddicord. This young soldier had been ordered to stand watch over the body on board the *Montauk* until the inquest began. In a signed article, published by the Roanoke, Virginia, *Evening News* on June 6, 1903, he spoke freely of the events that had then come under his observation. The important part of his recollections pertains to the tattooed letters, "J.W.B." He was the only witness, with the exception of Dawson, who had observed them and, what is still more poignant, recalled them as "letters in India ink, on the back of his hand, in pale, straggling characters, . . . as a boy would have done it." This happens to correspond exactly with a description given by Booth's sister Asia in her memoirs. These recollections, recorded in her diary, may be taken as authentic. "He had perfectly shaped hands," she wrote, "and across the back of one he had clumsily marked, when a little boy, his initials in India ink."¹⁴

The similarity of these two statements makes up for Mr. Dawson's lack of accuracy and eliminates other descriptions of the initials from more remote sources. The testimonies of Dawson, Peddicord and Asia Booth, taken in conjunction with each other, form a strong chain of evidence.

The inquest proceeded. The scar on Booth's neck, which Dawson had pointed out, called for further investigation, and

the officials in charge lost no time about it; they sent for Dr. John Frederick May, the surgeon who had performed the operation of which this scar had been the eventual result. He quickly identified Booth's body by means of this blemish.

Doctor May wrote of this experience in 1889, although the article was held in abeyance until 1909, when it was read before the Columbia Historical Society of Washington.¹⁵ It is a dramatic story, well told. According to Doctor May, he was a very reluctant witness and went to the inquest under duress. When he arrived on the *Montauk* the cover was taken from the corpse.

“. . . to my great astonishment [it] revealed a body in whose lineaments there was to me no resemblance of the man I had known in life! My surprise was so great that I at once said to General Barnes, 'There is no resemblance in that corpse to Booth, nor can I believe it to be that of him.'”

Now follows the climax. The doctor reflected silently for a few moments and then asked, “Is there a scar upon the back of its neck?” There was. Then Doctor May said: “If that *is* the body of Booth, let me describe the scar before it is seen by me;” and he did so with such accuracy that Doctor Barnes replied: “You have described the scar as well as if you were looking at it . . .”¹⁶

The soldiers thereupon placed the body in a sitting position, and Doctor May was finally enabled “to imperfectly recognize the features of Booth.”¹⁷ But never had he seen a greater change. The skin was yellow and discolored and the “facial expression sunken and sharpened by the exposure and starvation it had undergone.”

Unfortunately, the stenographic transcription of the inquest, carefully annotated and corrected by Doctor May himself, does not fully support his published recollections. In the cold light

find a large ugly looking scar,
instead of a neat line. He said it
corresponded exactly with my descrip-

Answer - I do recognize it, though it is
very much altered since I saw Booth.
It looks to me much older, and in
appearance much more freckled than
he was. I do not recollect that he was
at all freckled. I have no doubt it

Answer - From the ^{Scar} ~~wound~~, I ~~do not~~
^{in connection with the}
could not be; ~~but~~ I also recognize
of the features, which though much
changed and altered, still have the
same appearance, ^{I think I cannot be mistaken.} I recognize the
likeness. I have no doubt that it
is the person from whom I took the
tumor, and that it is the body of
J. Wilkes Booth.

Jno Fred. May M.D.

Given & subscribed at Wash. of the DC
this 28th April 1865 before me, and
I

of day his examination, given here in abstract, sounds much less convincing.¹⁸

Q. Were you acquainted with J. Wilkes Booth; if so, how long and under what circumstances?

A. I was acquainted with him—I cannot with exactness give the date, but I should say eighteen months or two years ago. I could specify the time by reference to my books . . . [There now follows a description of the operation.] I told the Surgeon General these facts this morning, before I looked at the cicatrix [scar] at all, and said that he would probably find a large ugly looking scar, instead of a neat line. He said it corresponded exactly with my description. . . .

Q. Have you, since you came on board this vessel, examined the dead body which is alleged to be that of J. Wilkes Booth?

A. I have, sir.

Q. Will you state whether, in your opinion, it is the body of J. Wilkes Booth?

A. I believe it to be, sir; I have no doubt that it is. I believe I have only seen Booth once since the time to which I have referred.

Q. Do you recognize the body as that of J. Wilkes Booth from its general appearance, and also from the particular appearance of the scar?

A. I do recognize it, though it is very much altered since I saw Booth. It looks to me much older, and in appearance much more freckled than he was. I do not recollect that he was at all freckled. I have no doubt it is his body. I recognize the features. . . .

Q. From the nature of this wound, even apart from the general appearance, you could not be mistaken as to the identity of the body?

A. From the scar in connection with the recognition of the features,¹⁹ which though much changed and altered, still have the same appearance I think I cannot be mistaken.²⁰ I recognize the likeness. I have no doubt that it is the person from whom I took the tumor, and that it is the body of J. Wilkes Booth.

This stenographic report conveys the impression of a man who is not at all sure of his own mind.

"I believe it to be, sir," Doctor May said when asked whether the body was that of Booth, and then added, "I have no doubt that it is." Was this corrective afterthought as spontaneous as it reads in print? Was the supplementary remark made in response to a frown on the part of the examining official or to a subtle threat which the witness felt? Almost each sentence spoken was followed with one that mitigated it.

"I do recognize it, though it is very much altered . . . I do not recollect that he was at all freckled. I have no doubt it is his body. . . . I think I cannot be mistaken. . . ."

Altogether, Doctor May's testimony is not overly persuasive.

In his story, "The Mark of the Scalpel," Doctor May stated that the tumor was on the back of the neck, "and rather on the left side." He says that he described it "so accurately as to position" when talking to Doctor Barnes that the Surgeon General was moved to an exclamation of surprise. At the inquest he had been much less picturesque in his description of that incident.

Two years later Doctor May declared under oath:

The tumor was on the back of his neck, a little to one side. *I do not recollect whether it was on his right or his left side.*²¹

In 1865, without anything to make this operation memorable to him, the doctor had been able to give Doctor Barnes the exact location of the scar. In 1867, after all the attention this wound had aroused, he had forgotten where it was; but in 1889, when he wrote his address, he suddenly remembered the details again.²²

A rather unreliable witness, this Doctor May; the value of his story is further lessened because he was not the only surgeon who had operated on Booth's neck. The actor's sister recalled that "Wilkes came to my house in Philadelphia, and a doctor

. . . lanced a great carbuncle on his neck. . . . he suffered much.”²³

Doctor May adds the information in his “Mark of the Scalpel” that the *right lower limb* of the body was contused and perfectly black from a fracture. Now, there is no question but that it was Booth’s left leg which had been injured. Hence, either Doctor May was a very poor observer, or he was a loose writer—or else the corpse was not that of Booth.

There was one part of Doctor May’s testimony, however, which is of great importance and to which he made no reference whatever in his paper before the Columbia Historical Society. If he had, it would have ruined his literary effort. The face on which the surgeon had looked *was freckled*. Yet, Booth’s skin did not incline toward freckles, and no one had ever seen him with anything but his famous marble-white complexion. Nor had there been any chance for Booth to become freckled during his flight.²⁴ He escaped from Washington at night, slept at Doctor Mudd’s for a day, traveled again the next night and spent a few days in a thicket. The remainder of the time he traveled after sundown or hid in houses. During the five days at Captain Cox’s farm, the assassin “lay there, where the pines were so thick that one could not see more than thirty or forty feet into them,” it was reported by one who had visited him.²⁵

Doctor May had no right to omit mention of the freckles in his “The Mark of the Scalpel”, and his doing so damages the intrinsic value of all his statements.

So far, all witnesses at the inquest had been hand picked. The two navy men were probably put on the stand because they were close by and claimed superficial acquaintance with Booth. Their testimony carries little weight. Dawson had evidently been selected because he knew of the tattooed initials and the scar. Doctor May’s presence had been a logical sequence of

Dawson's disclosures. He was avowedly afraid of Baker's men and he had ignored the first summons to the inquest; but as the *Inter arma silent leges* power was in full force, he deemed it prudent to obey, as he admitted later.²⁶ Knowledge that the law is silent while soldiers rule undoubtedly also impressed all these chosen witnesses, not only Doctor May.

Chance willed it, however, that just as preparations for the inquest were being made, there came strolling on board the little war vessel a young Washington lawyer whose presence was unsolicited and could not have been anticipated. He was the brother of the ship's captain and had gained access to the exclusive assembly by a mild ruse. Major Eckert, with whom the visitor—his name was Seaton Munroe—was acquainted, asked him if he wanted to see the corpse, pointing at the same time to a gathering of people around it on the after deck.

"I was soon gazing at the remains," Munroe wrote in 1896,²⁷ "which needed no long inspection to enable me to recognize them. The handsome countenance was unmarred by the agony of his lingering death . . . his broken leg had been set, and its foot was now covered by an old shoe . . . The body was . . . awaiting, before a kind of military coroner's jury, an official identification, in which I little thought I was soon to bear a part. . . ."

There was not the slightest hesitation in the young attorney's sworn testimony a few minutes later.²⁸

Q. Will you state whether you know J. Wilkes Booth, how long you have known him and how intimately?

A. I have known him by sight for two or three years. About two months ago I met him one evening at a "hop" at the National Hotel, in this city, was introduced to him, and conversed with him a short time. I never have been intimate with him, nor known him more than that. I am very familiar with his face, and distinctly recognize it.

Q. Have you examined carefully the dead body claimed to be that of J. Wilkes Booth, and now on board of this vessel?

A. Only by close inspection of the features several times this morning.

Q. What is your opinion as to its being the dead body of J. Wilkes Booth?

A. I am confident that it is the dead body of J. Wilkes Booth.

Q. Are there any special marks which enable you to recognize it?

A. I recognize it only from its general appearance, in which I do not think I can be mistaken.

This testimony differs unaccountably from the assurance by Doctor May and others that the features of the dead man had changed greatly, for Munroe found them "unmarred." The latter's recognition of the body was, contrary to that of Doctor May, instantaneous and unequivocal.

Unconfirmed reports have it that a dentist also successfully identified Booth by means of some recent fillings. These reports are apparently based on a story told in later years by an army officer who had known Booth since childhood and who was sent by the Paymaster General to Doctor Barnes in order to assist at the inquest.

"I immediately reported to General Barnes," he recalled, "who was getting out of his ambulance in front of his office . . . and when I told him my errand, he said it was unnecessary; that he and nine others had identified the body; that Dr. Merrill, the dentist, had filled two teeth for Booth the week before; that they had forced the mouth open and saw the fillings. So the identification was complete."²⁹

If Doctor Merrill's testimony was ever taken, it is not now on file. No contemporary papers mentioned him, although they published the findings of Doctor May; and if there were nine witnesses besides Barnes, it is not so recorded in the official transcripts. The report therefore appears dubious.

The authorities erred grievously when they excluded witnesses who had known the assassin for years and who were anxious to help in the identification of his body. They erred still more flagrantly when they failed to have pictures taken by the official photographers. As the latter had obviously been summoned for the purpose of taking pictures, their failure to do so lent itself to ominous interpretations. It is chiefly on the strength of these sins of omission that adverse rumors were started on their flight. The government, so it was said, had been afraid to let people come near who had known the actor well and, as to not allowing the production of photographic evidence—or, as some had it, the enforced destruction of the plates already exposed—there could, of course, be only one explanation. That some photographs had been taken was indicated in the *New York Tribune* of April 29, where it was stated that “yesterday a photographic view of the body was taken before it was removed from the monitor.”

While guilty knowledge that the body was not Booth's may have been the reason for the authorities' peculiar course of action, this inference is by no means the only one. Moreover, it is not even the most probable. Not that Holt and his satellites were above coloring the results of the inquest, had their interests demanded it. If they had wished to hide something, they would have ruthlessly excluded nonpartisan witnesses and forbidden the use of photographic appliances. But might they not also have acted in the same manner if there had been no doubt in their minds as to the identity of the corpse? The body was beginning to decompose ³⁰—make the formalities short. There were some men within reach who claimed enough acquaintance with Booth to identify the remains. Let Doctor May and an accidentally present visitor join in the proceedings; that would be sufficient. So far as pictures were concerned, it is quite likely that Holt and Bingham were aware of a change in the dead man's

features. This change would have to be explained, and the more it would be explained, the less the explanations would be believed. Perhaps it was better not to have photographs, after all. Paradoxical as it may seem, Holt's procedure would probably have been the same, whether he was sure the body was that of Booth or whether he was sure that it was not.

Contemporary newspapers brought only fragmentary reports of the autopsy. The *New York Tribune* of April 28, 1865, printed a sketchy outline of the proceedings in a wire from Washington.

Surgeon-General Barnes held an autopsy upon Booth's body this afternoon. The smaller bone of his left leg was badly fractured, one of the smaller arteries ruptured, and the leg badly swollen. The ball entered the left side of the upper section of the neck, passing out on the opposite side.

Aside from the fact that it was the long bone of the left leg which had been broken in its lower part, and not a "smaller bone",³¹ this report contains another error. The ball had not entered the neck of the dead man on the left side, but on the right. Commentators of that day, however, were anxious to point out how divine justice had ordained that the assassin should die just like his victim—with a bullet wound in the identical place, and death occurring at the same time in the morning. Therefore they made their reports confirm their sermons.

Other papers allotted very little space to the story of the inquest.

"Surgeon General Barnes," wrote the *Washington National Intelligencer* on April 28, "assisted by eminent medical practitioners, yesterday afternoon made an autopsy of the body of the criminal." That was all. That the papers were under strict censorship was evident. The *Intelligencer*, for instance, had the

news of the drama at Garrett's farm as early as nine o'clock on the night of the twenty-sixth, but dared not print it, "in obedience to the request of the military authorities, as communicated in a circular dated the 21st instant."

There appears to be no particular reason why the newspapers were not furnished with a more detailed account of the inquest. The names of the witnesses could have been given to the press, and the subsequent burial need not have been conducted so secretly.

"The excitement at the Yard," said the *Intelligencer*,³² "was at a very high pitch, being fully kept up by a large number of people flocking there for news. Latterly, especially since the arrival of the assassin's body, it was kept up to fever heat by the numerous questions and rumors of the largely augmented crowd, and yesterday it became necessary to close the Yard gates against all who had not passes from some constituted authority. The order was so imperative that even some prominent newspaper correspondents who did not have the requisite passes were excluded. . . ."

Other press reports were vague. Wrote the *New York Times* on April 28:

The body of Booth has just been formally identified by prominent surgeons. From long exposure it has changed very much.

A surgical operation performed upon him several weeks ago rendered identification easy.

The left leg was broken, and appearances indicate that this injury was sustained when Booth jumped from the President's box to the stage of Ford's Theatre.

The bullet which killed Booth struck the spinal column, paralyzing the body.

The *New York Herald* of the same date was more voluble, if less accurate.

. . . When it was ascertained that he [Booth] was dead, the body . . . was placed upon the steamer and conveyed to the Navy Yard at Washington. After it was deposited there it was identified by Dr. May, of this city, who had on one occasion cut a tumor from Booth's neck, and recognized the scar thus made. It was also identified by some thirty others, who were familiar with Booth during his lifetime. The body was somewhat bruised on the back and shoulders by the ride in the cart from Garrett's farm to Belle Plain, but the features were intact and perfectly recognizable. . . .

The unwise tactics adopted by the War Department made it practically certain that, in the absence of reliable reports, myths would spread and would continue to do so unendingly.

However, if the Bureau of Military Justice had been uncertain concerning the identity of the corpse, or had known that it was not that of Booth, Holt would hardly have summoned Dawson. The hotel clerk was obviously selected because he had mentioned the two physical blemishes with which he was familiar. It would have been easy to ignore him and rely only on witnesses whose acquaintance with the actor had been less intimate. Dawson's testimony brought in its wake the examination of the body by Doctor May, and what this prominent physician would say no one could know in advance. To invite his inspection would have been flirting with disaster, if the authorities had been a party to a contemplated fraud.

The two detectives who had cornered the victim in Garrett's barn were not called upon to make statements at the inquest,³³ but they were subsequently asked to give their opinions regarding the identity of their victim. Colonel Conger testified at the conspiracy trial that he "had seen John Wilkes Booth in Washington, and recognized the man who was killed as the same."³⁴ Curiously enough, the photograph of Booth, marked "Exhibit 1"

and displayed before so many other witnesses, was not shown to him. If it had been, a sensation might have resulted, for Conger was also familiar with the features of Edwin Booth whom he had often seen play and whose picture somehow had figured in the proceedings of the conspiracy trial as that of his brother.³⁵

Lieutenant Baker's opinion was elicited in 1867.³⁶

Q. Had you known Booth before he was shot?

A. No, sir. I had his likeness, and identified him by it.

Q. Did you know Booth before?

A. I did not.

One of the Garrett boys verified Baker's statement many years later.³⁷

I saw the detective place the cabinet photograph of John Wilkes Booth, the well known actor, beside the dead face of the man we had known for two days, and all the books in the world could not persuade me that God ever made two men so exactly alike.

Taking it all in all, it appears that the inquest on the *Montauk* was conducted honestly, but without good judgment, and without the thoroughness which the circumstances demanded. The failure to take photographs was a mistake; so was the selection of witnesses. Some of the assassin's most intimate acquaintances should have been summoned. The freckles on the face of the dead man, mentioned by Doctor May, should have been investigated. But on the whole, the officials seemed justified in concluding that they had done their duty and that, in the absence of any evidence to the contrary, the corpse had been properly identified as that of John Wilkes Booth. That their findings would still be hotly debated after the lapse of three-quarters of a century was something they did not and could not foresee.

A last opportunity to establish the identity of the body was offered when it was disinterred in 1869 and given to the Booth family. John Weaver, sexton of a Baltimore church, was entrusted with the remains, which were first taken to a Washington undertaking establishment. A preliminary examination by Weaver, who was accompanied by Edwin Booth, convinced them both that they had received the dead actor's body. An elusive dentist again was said to have recognized his work.³⁸ The corpse was then taken to Baltimore, and there the elder Mrs. Booth and three of her children, Edwin, Rosalie and Joseph, declared themselves satisfied that they were looking at the last earthly remains of their errant relative.

From all appearances the so-called identification of the body at Baltimore did not prove it as that of Booth. It did not even prove the corpse identical with the one examined on the *Montauk*. True, the proceedings indicated strong points of resemblance to Booth, such as the black hair, the left leg broken near the ankle, partial recognition by some of those present; but they also produced enough curious features to leave much doubt and a regret that such a rare opportunity to settle this historical puzzle was not used to better advantage.³⁹ The scar and the initials J.W.B. should at least have received due attention. The authorities may have been amiss in the first inquest; but the inquest by Booth's own family four years later was unquestionably of even less value than the first and furnishes no basis for safe deductions.

☆ IV ☆

ONE of the most intriguing of all problems surrounding Lincoln's death is that of John Wilkes Booth's possible escape. It is one which has been debated persistently ever since the night of April 26, 1865, when one man was shot and another captured at Garrett's farm. The captured man was David E. Herold, Booth's companion on his flight; but was the other man Booth?

Partisans of this dispute have argued their points back and forth unendingly with much vigor and ingenuity. Both sides sincerely believe they are right. Yet there can be, of course, only one answer to the question. Either Booth escaped or he did not—which?

IV

Did John Wilkes Booth Escape?

IF THE proceedings on board the *Montauk* did not establish with certainty the identity of the man shot at Garrett's farm, further investigation must turn to the events at the tobacco shed in Virginia from which the body had been taken. Either at the conspiracy trial in 1865, the Andrew Johnson impeachment investigation or the Surratt trial in 1867, all the important eyewitnesses of that night were examined under oath. Their detailed testimony should yield definite clues to the truth. Unfortunately, even the evidence derived from these sources bristles with contradictions.

When the troopers, under the military leadership of Lieutenant Doherty, but guided by the two detectives Everton J. Conger and Luther B. Baker, closed in on the farm building in which the two fugitives had taken refuge, the very start of the parley was mysterious. As reported by Conger, one of the hidden quarry spoke the first words.

"Who are you; what do you want; whom do you want?"

Under the circumstances, the speaker's correct use of the pronoun *whom* is interesting. Whoever the man inside the barn was, he was a man of education. Moreover, his manner of speech must have made a lasting impression on the questioner.

Lieutenant Baker replied, "We want you, and we know who you are; give up your arms and come out."

At this point of his story Conger made an odd remark. Hav-

ing attributed one side of the conversation to Booth, he now suddenly injected, "I say Booth; for I presumed it was he."¹ It was a queer thing to do—to let the fate of his expedition rest on a mere presumption, when one direct question and answer would have removed all doubt.

The speaker for the besieged men then requested time for consideration, and after a few minutes' interval asked again, "Who are you, and what do you want?"

Baker was on the point of making a suitable reply when Conger intervened.

"Do not by any remark made to him allow him to know who we are . . . If he thinks we are rebels, or thinks we are his friends, we will take advantage of it . . ." And so Baker shouted into the barn, "It don't make any difference who we are; we know who you are . . . we want to take you prisoners."² Of course, he might as well have blurted out his name and the number of his regiment; for who else but Federal soldiers would be taking prisoners, now that Lee had surrendered?

Once more the man inside endeavored to clarify the situation.

"This is a hard case," said he; "it may be I am to be taken by my friends." There was no reply to this.

When Lieutenant Baker came before the Impeachment Investigation Committee, he confirmed the ambiguity of this conversation.

"Then I addressed the person in the barn . . ." he recalled. "There were no names mentioned at all."³ And Boston Corbett, who was credited with the shot ending the fugitive's life, testified likewise.

"Booth made many replies," he stated in 1865. "He wanted to know who we took him for . . . His name was not mentioned in the whole affair."⁴

The consistent avoidance of Booth's name was peculiar; it does not necessarily imply, however, that the detectives thought they

had cornered the wrong men and were unwilling to acknowledge their error for fear of losing the promised reward. Their behavior may have only conformed to the haughty treatment ordinarily accorded the victims of military arrests. Conger and Lieutenant Baker had long been members of the secret service and were accustomed to its high-handed methods.

Yet, traces of doubt still lingered in Lieutenant Baker's testimony at the impeachment investigation. Baker was by far the most dependable witness of all those examined; he exhibited a great deal of independence throughout and was apparently indifferent to disapproval from high quarters. He was the only one to acknowledge without fear that the shooting of the man in the barn could have been avoided.

"Was there any necessity for shooting him in the manner he was shot?" he was asked.

"No, sir," he replied.

"Could you have taken him without that?"

"Yes. It was all arranged. I was sure of taking him."⁵

But Baker had been far from sure whom he and the soldiers had brought to bay. Unconsciously he gave utterance to his doubt when he testified in 1867 that he had "addressed the person in the barn;" and when he had picked up the wounded fugitive he had exclaimed in relief,⁶ "It is Booth, certainly." Evidently he had not felt any too comfortable on that score up to then.

When Baker described how the dying man had been taken from the burning shed and laid on the porch of the Garrett home, he made a startling remark.

"He opened his eyes," Baker swore, "and seemed to realize what was going on. The first words he uttered were, 'Kill me, oh kill me.' I said, 'No, Booth.' *When I said 'Booth', he seemed surprised*, opened his eyes, and looked about."⁷

What can be the meaning of this? A dying man hears his

name mentioned; he opens his eyes and acts surprised. Could anyone carry dissimulation into the agony of death? It would seem that only two reasons could have made him display astonishment. Either he was Booth and had been convinced up to this moment that he had misled his pursuers—a supposition which is not supported by evidence; the wounded man had made no false statements about himself—or else the injured man was not Booth.

Immediately afterward, though, another incident happened which is equally difficult to interpret, but which points in the opposite direction. Conger had by this time come to join Baker, and both detectives were kneeling beside the wounded man. Their conversation turned to the Confederate soldier Jett who had aided Booth in his escape, had then been followed to Bowling Green and, as a prisoner, had been forced to guide the troopers to Garrett's farm.

"When I mentioned Jett's name," Baker testified, "Booth opened his eyes and said, 'Did Jett betray me?'"⁸

The name of Jett and his part in helping Booth to find refuge at the Garrett home, was known to very few people. If the dying man was indeed Booth, his question was a natural one; if not, his knowledge could only be accounted for by assuming that he had been thoroughly coached in his part; but who could know that Jett's name would be mentioned at all? Besides, it would require a wonderfully cool mind to continue an impersonation while in terrible pain and partially paralyzed. There remains still another possibility: someone may have taken Booth's place, and Jett may have helped arrange the substitution, if substitution there was; but nothing at all has ever come to light to warrant this assumption. As Jett was subsequently spurned as a traitor by his neighbors, it is improbable that he would have kept silent about something that would have made him a hero in their eyes instead.



THE GARRETT HOME

With barn in background as it stood in 1933. The site of the out-house in which the fugitives were cornered stood in a straight line with the barn, and directly behind the main building. The present-day tradition that the out-house stood on the left of the barn is erroneous.

(From the author's collection.)

The only one who must have known positively whether it was Booth or someone else inside the barn with him was his companion, David E. Herold; and to those who captured him he asserted with emphasis that the other man had *not* been Booth.

The first time Herold made reference to this matter was when he decided to give himself up. Lieutenant Baker testified that he had heard Herold called a damned coward by his fellow prisoner in the tobacco house.

"Then Herold came to the door and rapped, and said, 'Let me out, quick; I do not know anything about this man, he is a desperate character, and is going to shoot me.'"⁹ The young drug clerk was taken out, but still maintained that he did not know the man who had stayed behind.

"Did you have any conversation with Herold," Lieutenant Baker was asked, "at the time Booth was shot, except what you have stated?"

"No, sir," was the answer. "He . . . said that he . . . knew nothing of Booth, except that he had fallen in with him as a traveling companion. That was the only excuse he made for being with him."¹⁰

Captain Doherty, who was in command of the troops, swore to a similar conversation between himself and Herold, immediately after the latter's surrender.

"Said he to me, 'Who is that that has been shot in there in the barn?' 'Why,' said I, 'you know well who it is.' Said he, 'No, I do not; he told me his name was Boyd.' Said I, 'It is Booth, and you know it.' Said he, 'No, I did not know it; I did not know that it was Booth.'"¹¹

On the 27th of April, one day after his capture, David Herold made a voluntary statement—at least it is so termed in the official records—before John A. Bingham, the special judge advocate who, with Judge Advocate General Holt, had been put in charge

of the conspiracy case.¹² This statement was never published, nor was Herold ever interviewed or given a chance to speak in court; whatever thoughts on Booth were in Herold's mind can therefore only be found, if they can be found at all, in the stenographic version of his examination.

Herold first answered the usual routine questions. He was twenty-two years of age and had lived until recently with a druggist named F. S. Ward in Washington, by whom he had been employed for eleven months. His mother resided on Eighth Street East, between L and M, but he had not roomed with her for two or three years. Of late, however, after taking some time off for partridge shooting in Maryland, he had gone back to his parental home and endeavored to obtain a position. On the 21st of March (immediately after the kidnaping attempt) Herold had been given a clerkship at Base Hospital, Army of the James. Then the more important questioning began.

Q. When, if at all, did you first become acquainted with J. Wilkes Booth?

A. I do not remember the time exactly. I think I was a clerk with Wm. S. Thompson, druggist, corner of 15th Street and New York Avenue, two years ago, the time when Booth had a ball taken from his neck by some surgeon in Washington. [Booth had his friends believe that the tumor removed by Doctor May was in reality a gunshot wound.] I met Mr. Booth, off and on, sometimes once a week, or maybe two or three times. We would always stand and have a chat. He left the city, and I did not see him for seven or eight months.

Asked what correspondence there had been between him and Booth, Herold answered that he had received only inconsequential notes and complimentary theatre tickets. Five or six times the two men had met at the actor's room in the National Hotel. The conversation had been about coal oil. On previous occasions

Herold had met the actor John McCullough in Booth's room. He had also met there the German boatman, Atzerodt.

Q. Did you see him [Booth] on the 14th, last Friday week?

A. No, I don't remember whether I did or not. . . .

Q. Did you see anybody else that spoke to you upon this subject that day?

A. No, sir; I never had any idea of it that day.

Q. Where did you see Booth after the occurrence?

A. I was in the country, and was coming home.

Q. Where were you?

A. I had been in the country, trying to sell a horse. . . .

Q. Whose horse were you trying to sell?

A. A horse belonging to Atzerodt. . . .

Q. What time did you start from Washington on that journey?

A. I don't know. I was tight. I had been tight nearly all day.

Q. Who asked you to go?

A. No one; I asked myself. . . .

Q. How did you come to go that Friday afternoon?

A. I don't know how, any more upon that afternoon than any other. . . . On my way home, at the foot of Soper's hill, between seven and eight miles from Washington, I met Booth. He spoke to me.

Q. What time was that?

A. I think it must have been about half past 11 o'clock at night.

Q. The same Friday night you went down?

A. Yes, sir; the same Friday. Says Booth, "Come go back down the country; we will have a gay old time." I told him I was obliged to go back home. He said it was impossible to cross the bridge, for the gates were shut, and he had had difficulty in getting over himself. I think Booth must have been drinking; I am quite confident that he had been. He insisted upon my going down to Bryantown with him. . . . When I refused to go, he insisted upon it two or three times, saying that his horse had fallen or he was thrown off, and his ankle sprained. We went to Bryantown, and got there about day. I rode through the country, and he said he was going to see a

friend of his. I asked him when he was going to Washington. He said maybe in two or three days, if his foot was well enough. On Saturday night, I heard that Lincoln was shot by a man named Booth. On that night I came to Bryantown, and was coming home. I met him at the crossroads, and said I, "The President is killed, and either you or your brother did it." Says he, "No, sir, I have not done it." I then noticed that he had pistols and a knife on. I said, "What are you armed so for?" That was on Saturday. His leg had been set, and was all tied up.

Q. Did you stay with Booth from the time you met him until you were taken?

A. No, sir; I was away from him maybe as much as four hours and then met him again. He had then got his ankle set. I asked him, he told me the doctor's name. He said that he represented himself (Booth) as a Mr. Tyson, living somewhere near Bryantown.

Q. Had he crutches when you met him first?

A. No, sir; Saturday night he had, after we left one another. . . .

Q. Where did you part from Booth?

A. Just at Bryantown.

Q. When?

A. On Saturday morning, a little after day.

Q. From the time you first met him until you parted with him was there anybody else with him?

A. No, sir; we two were alone. When I met him, he says, "Come, let us take a ride down the road." I went to a free darkey's and bought some bread and milk. . . . It was about 7 or 8 o'clock. We went slowly; Booth would not ride fast. When I accused him a second time of the murder of the President, he said, "I did it"; and said also, "If you leave me, there are parties in Washington that will put you through. . . ."

Q. How did you come to hear that the President had been killed, and that a man named Booth had done it?

A. Who it was told me, I do not know. I do not know the gentleman's name. . . . I said, "Booth, the President is killed, and a man by the name of Booth did it, and I don't know whether it was you

or your brother.”. . . After he had acknowledged that he had done this thing, Booth said, if I left him, he would put me through, and if he didn’t do it, there were parties in Washington that would implicate me. I told him no one could do anything like that. He said I had been with him, and that they were after me. I told him I didn’t believe him. We got lost. He gave a darkey five dollars to show him across the country, to a gentleman’s named Thomas. We went to Thomas’s at 1 or 2 o’clock on Saturday night, and asked him if we could get a boat to cross the Potomac. . . .

In the meantime, this gentleman said that J. Wilkes Booth had killed the President, and that there was a man named Herold with him; that they were seen at Bryantown. Then I was frightened nearly to death.

. . . We staid in the pines, and when anything came along or passed us we would buy bread or meat. On Tuesday or Wednesday night, I forget which, we started to cross the Potomac.

Herold then described the meeting of the two fugitives with the three Confederate soldiers who brought them to Garrett’s farm.

Q. Did you go to Garrett’s too?

A. I did not. I said I would go to Bowling Green. I wanted to get away. When we came on the road again, this Capt. Jett asked my name. I told him my correct name. He gave me a book and asked my signature. I took the pencil, and wrote my name in it, D. E. Herold. Says he, “What gentleman is that you have with you?” I says, “What name did he tell you?” He answered, “Boyd.” I says, “If he told you his name was Boyd, he told you right.” That is the worst thing I have done. I was not at all thinking of the consequences. . . .

In the afternoon Booth and Herold were warned that Union cavalry was approaching.

. . . Booth sent upstairs for his pistol, and went into the woods. He begged me to come. I picked up the knife and went with him. I left

him with the rifle in the woods and went up to Garrett's house. I was willing that they should take me. The cavalry went past the house, and old Mr. Garrett says, "You had better go down and tell Mr. Boyd to come up and get his supper." It was then a little after dark. I called him, he came out of the woods, and I brought the rifle. He said he was very anxious to get away . . .

Booth and his companion then were locked in the barn.

Just before daylight, Booth waked me up, and said that the cavalry had surrounded the barn. I said "You had better give up." He said, "I will suffer death first." Mr. Garrett then came, and said "Gentlemen, the cavalry are after you. You are the ones. You had better give yourselves up." I am confident that he didn't reply to Mr. Garrett, but laid still. I moved about in the straw. I didn't try to conceal myself at all. Booth says, "Don't make any noise. Maybe they will go off, thinking we are not here." He had hardly got the words out of his mouth when the Captain of the party says, "I want you to surrender. If you don't, I will burn the barn down in fifteen minutes." Booth then asked who he was and what he was after. The Captain said he was after him.

Herold's account of the parley which followed tallies with that of Baker. What went on inside the shed Herold reported as follows:

The Captain called upon Booth a second time to surrender, and told him there were only ten minutes left. Booth got up, and wanted to know the officer's authority. I told him, "You don't choose to give yourself up; let me go out and give myself up." He says, "No, you shall not do it." He spoke low to me and I to him. I begged him to let me go out. . . . I started for the door once, when he threatened to shoot me and blow my brains out. The Captain then said only five minutes more were left, and the barn would be burnt down. I said, "I am going; I don't intend to be burnt alive." I went to the door and knocked. Booth says, "Let him out; that young man is innocent." The Captain then said to me, "Whoever you are, come

out with your hands up." I did so. He took my gloves and a piece of map; that was all I had. The officer says, "Come, stand up by the house." He caught me by the collar, and as I turned round I heard a pistol shot, looked around, and saw one corner of the barn in a light blaze. They jerked the barn door open. Booth was lying there. He tried to say "Mother" or something of that kind. He said to me in a whisper, "When you go out, don't tell them the arms I have." He had two revolvers, a bowie knife, and a Spencer rifle. . . .

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In this statement, made the day after the shooting affray, Herold no longer claimed ignorance of his companion's identity, but constantly referred to him as Booth. Had he forgotten his first assertions to the contrary, or did he reason that, with the dead body in the possession of the authorities, further denials would be useless?

Yet, Herold's statement to the assistant judge advocate is such a mixture of truths and falsehoods that little reliance can be placed on it. Two falsehoods stand out prominently. Herold averred that he crossed the Anacostia bridge in the afternoon and not in the evening. This is disproved by the stableman John Fletcher, who recognized horse and rider in the streets of Washington about 10 p.m., and by Sergeant Cobb, who examined Herold at the bridge shortly afterward.¹³ The other lie centers on the alleged separation of the two fugitives on Saturday morning. According to Herold, Booth went alone to Doctor Mudd to have his leg set and met his confederate later on the crossroads; but that Herold was with him at Doctor Mudd's house has been established beyond doubt. The first falsehood was to serve Herold himself, by showing that he had not been in Washington on the night of the assassination; the other was to avoid dragging Doctor Mudd's name into the investigation. Herold was a loyal young man, no matter what other faults he may have had, and

this fact adds to the difficulties of analyzing his story to Mr. Bingham.

Herold's assurance to both Baker and Doherty that he did not know the man in the barn may have been based on fear. By denying Booth's identity and any connection with him, he would shield himself from immediate maltreatment at the hands of the soldiers. Such a denial could be of no great benefit to his companion, of course, if he was Booth. The climax was close at hand, and in a few minutes the cripple in the barn would be out in the open, dead or alive. The lie might do service for a few moments by preventing the pursuers from setting fire to the building; but if that was Herold's motive, it would have been useless to keep up the hoax indefinitely.

Whatever may have been in Herold's mind, the question is this: when did he speak the truth—when telling his pursuers that his companion was a stranger, or when telling Bingham that he was Booth?

By the time Herold confronted the judge advocate he had had plenty of time to collect his thoughts. The soldiers were convinced that they had captured Booth and they would stick to their story. If Herold confirmed it, the real Booth, if he had escaped, would be the better off for the confirmation. His former assertion that it was not Booth who had been shot would be openly ridiculed and secretly resented; the authorities needed a dead Booth. Why not give them what they wanted? Whether the man in the barn was Booth or someone else, Herold's statement to Bingham might easily have been the same.

A clerk of the military tribunal whose duties included the recording of the prisoners' activities and physical condition, came to know Herold well and heard his confidences.

"If Booth had escaped," he stated many years later, "it is highly probable that Herold would have told of it. Herold wasn't a strong character. Loyalty such as his would undoubt-

edly have wilted in the shadow of the gallows. But so far as I could observe there was no question in his mind as to the identity of the corpse . . .”¹⁴

Captain Rath, who had charge of the Arsenal prison, where Herold was confined, also was convinced that the assassin had been shot dead.

“Speaking of Booth,” he was quoted as saying to a reporter for the *New York Press*,¹⁵ “I want to say a word about the silly reports that he was not killed, and that he is now living. Herold was with Booth when he was killed. He related to me the details of their attempt to escape and of the assassin’s final ending. I believed Herold told the truth about the matter . . .”

In all probability, and giving due weight to all aspects of the case, Herold felt certain that it was Booth, and no one else, who had been shot.

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If the man who was shot was not Booth, two possibilities must be examined. One is that the assassin, having wandered off into the woods during the afternoon after being warned of approaching Federal troops, never returned; the other is that Booth did return, but that he later escaped and that his place was taken by someone else who impersonated him.

Finis L. Bates, in his fanciful tale of Booth’s escape, asks,

Can any one . . . believe that Booth did not go and continue to go? Can any one believe that he would at that time have returned to the Garrett home? The sane and reasonable answer to these queries is unquestionably and unequivocally—NO.¹⁶

In spite of Bates’ belief, there is very little doubt that Booth did return to the house and ate supper with the Garrett family. For one, Herold said so, and he seldom lied when his story could be easily checked. John W. Garrett, one of Booth’s hosts, when

examined during the Surratt trial, also was quite positive about the matter.¹⁷

Q. Did you know John Wilkes Booth?

A. Yes, sir. . . . I saw him at my father's house . . .

Q. How long did he stay there?

A. He remained until after dinner [lunch]; then some cavalry came along, and he left the house for a short while, and I think returned again.

Q. Where did he go?

A. I do not know where; he could not have gone far, because he came back very shortly. . . .

Q. Did you see him return?

A. I did. . . . After supper he went to the barn and staid there until the cavalry came.

The Garrett family certainly knew whether or not the man they entertained for supper and locked in the barn afterward was the same one they had harbored for two days. But if John W. Garrett would have willingly perjured himself, for one reason or another, such false testimony would have been extremely dangerous, in view of the fact that there were children around the house who had witnessed all these happenings; to control their talk with inquisitive detectives would have been difficult.

As a matter of fact, all the Garretts were certain on this score. William H. Garrett, writing in the *Confederate Veteran* in April 1921, also told of the men retreating to the woods while the cavalry passed and then returning to the house. Miss Lucinda Holloway, a cousin of the Garretts who lived with them, expressed no doubts that Booth had taken supper with them.¹⁸ Another member of the family, the Rev. Richard B. Garrett, wrote twice about the visitor. In the *New York Sun* of February 11, 1917, he corroborates William H. Garrett: the family's distrust of their guest had been aroused, the father refused him

the use of the house and, after supper, Booth went out to the tobacco barn to sleep.

The Reverend Garrett's other and earlier story is somewhat more explicit. Writing to General A. R. Taylor at Memphis in 1907,¹⁹ he refers to a question Finis L. Bates had asked of him: "How do you know that the same man came back from the woods that went into the woods?"

"Did he think us a set of fools," Garrett exclaimed, "that we should not know a man in broad daylight that we had been entertaining for two days?"

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It may be considered a fact then, that Booth returned to the house and that it was he who was locked in the barn. If someone else was shot instead, this other man must have changed places with the assassin afterward—apparently a far-fetched possibility; yet, even the sworn statements of the pursuing detectives and soldiers do not preclude it.

Boston Corbett, who said he had fired the shot which killed the fugitive, did not claim that he had recognized his victim as Booth. When asked on the witness stand in 1865 whether he had known the actor, he answered in the negative.

"But," he added, "I was perfectly satisfied from his first remarks that it was him; for my commanding officer told me . . . that his [Booth's] leg was broken . . . I knew also from his desperate replies that he would not be taken alive . . . that it was Booth. I knew that no other man would act in such a way."²⁰

A rather daring inference, one should think. Corbett had never seen Booth before, yet he identified him by his broken leg—which was a good point—and by his acting "in such a way"—about which he knew nothing.

George Alfred Townsend, who had not been an eyewitness, but who wrote a complete account for the *New York World*, added to the confusion. Describing the final act of the drama at Garrett's farm, he said, "Behind the blaze, with his eye to a crack, Conger saw Wilkes Booth standing upright upon a crutch. He likens him at this instant to his brother Edwin, whom he says he so much resembled that he believed, for the moment, the whole pursuit to have been a mistake."²¹

Now, John did not greatly resemble his brother Edwin and, if the man in the shed looked like Edwin, he could not have looked like the assassin. Conger did not repeat on oath the statement which Townsend ascribed to him in his article, nor that he had thought at one time "the whole pursuit to have been a mistake." He said something else, however, which is worth considering; he said that the cripple in the barn spoke "in a singular theatrical voice."²² Lieutenant Baker made a similar observation.

"From the tone of his voice," he testified in 1867, "and his theatrical style, every word seemed to be studied."²³ Did he mean to intimate that, in his opinion, someone was playing a part which had been carefully rehearsed so as to mislead the soldiers? However, in private papers he wrote for his family, Baker did not give the impression that there was any question in his mind about Booth's death. The author was given the privilege of going through all the memoranda of this officer who played such a prominent part in Booth's pursuit, and there is in them not even a hint of anything that differs from the official account. His son, to whom the former detective talked freely of that memorable night, feels confident that his father considered Booth's death at Garrett's farm a certainty.²⁴

Izola Forrester, in her book *This One Mad Act*, shrewdly surmises that the long-drawn-out talk between the man in the to-

bacco shed and the pursuing party was only an attempt at procrastination.

"He parleyed for time," she writes, "sending the boy Herold out to surrender, delaying action, finally telling them to prepare a stretcher for him—the braggadocio of a soldier marking time . . . It was not a question of making the supreme sacrifice . . . It was merely attracting the attention of the officers and soldiers, until escape was certain . . ." ²⁵

Miss Forrester then relates a conversation she had in 1908 with General James R. O'Beirne who, as major and provost marshal, had played an important part in the Booth drama.²⁶ O'Beirne told his interviewer that there had been three men inside the barn, but that one had escaped through a rear door.²⁷ He left the identity of the men to the imagination of his listener.

O'Beirne's statement must be taken with caution. It was made forty-three years after the event and was then withheld from publication for thirty years longer. Furthermore, Major O'Beirne was not present at the tragedy, but was scouring the Zechiah swamp in the neighborhood of Bryantown while the shooting at the barn took place.

Whatever suspicions O'Beirne harbored must have come to him in later years. When the rewards were distributed, he accepted two thousand dollars as his part for bringing the assassins to bay.²⁸ None of his papers written at that time or subsequently expressed the slightest hesitancy as to the identity of the victim.²⁹ As ex-provost marshal, O'Beirne may have been in an exceptionally favorable position to hear backstairs gossip of the event, but his opinion in 1908 cannot be accepted as history.

O'Beirne's allegation, however, raises two questions: was there a rear door and, if so, was it used to permit the escape of Booth and perhaps the entrance of a substitute, either before the arrival of the soldiers or afterward?

Miss Forrester cites testimony given by Conger as proof that

such a rear door did exist.³⁰ This is not borne out by the records, as shown by Conger's words at the conspiracy trial:

He [Booth] came to the door . . . The door was opened . . . he stood with his back partly to me, turning toward the front door. He . . . turned around, and started for the door at the front of the barn.³¹

Two years later, Conger was on the witness stand again. This time he related that, "On the front side no men were stationed—the side the door was." And, "As soon as he left the corner of the barn which had been set on fire, he came towards the front door. The front door was near to the position where I stood . . . I went around to the front door . . ." ³²

Somewhat ambiguous statements, and one could argue them one way or another.

Doherty said even less than that. "I stood by the door . . . The door was opened . . ." ³³

John W. Garrett in 1867 testified simply and in a few words.

I went to the door and Baker unlocked it. . . . When the barn was fired the door was unlocked.³⁴

According to this testimony, then, there was only one door, and the Garretts had locked it, taking the key with them. If there had been a rear exit, there hardly would have been any sense in locking the front door. The Garretts claimed in later years that they were afraid the fugitives might steal their horse during the night and that the precautions they had taken were prompted by this fear.³⁵ They could not know in the early evening that Federal soldiers would arrive during the night; otherwise, it might be surmised that the Garrett family, being Southern in their sympathies, were putting up a show to throw dust into the eyes of the pursuers. The reasonable inference is, therefore, that there was only one door to the barn.

Curiously, there is enough contradictory evidence on hand to prove the exact opposite. The Rev. Richard B. Garrett, describing in the *New York Sun* of February 11, 1917, the events of that far-away night when he was a boy of eleven, states that "double doors were on all four sides and in the upper story were large windows."

William H. Garrett, writing in the *Confederate Veteran* in April 1921, confirms the existence of other doors.

Brother Jack and I went . . . to the barn, and after they had entered, fearing they might in the night come out and take our horses, we locked the door. Not being satisfied with that precaution, *as there were doors that fastened on the inside*, we concluded to sleep . . . near by to guard our horses.

Later on this statement occurs:

Brother reported what he [the man inside] said to the officer, who told him to lock the door. He then told my brother and me to pile brush near the *side door* . . . Lieutenant Baker was standing near the front door . . .³⁶

In a newspaper interview years after the event, Boston Corbett also referred to more than one door.

The younger Mr. Garrett then got a light . . .; opening a small door of the barn he went in . . . he [Booth] turned away . . ., going toward the door where Harrold had given himself up.³⁷

This statement is too vague to be considered of value. That there was more than one exit to the tobacco house was intimated by Lieutenant L. B. Baker on June 20, 1867, in a suit for a reward that had remained unpaid.

"The barn was about 50 x 60 feet," he stated. "Only one door of the barn was opened. The door opened looking towards the house. . . ." ³⁸

Final proof may be found in the *Congressional Globe* of July

26, 1866. Congressman Hotchkiss, who had the unenviable task of submitting a report on a just distribution of the reward moneys, said: "Lieutenant Baker stood alone at the front door . . . Now, mark another fact. . . . Lieutenant Colonel Conger had to go, and . . . with the aid of young Garrett . . . get rails to be propped against *the doors*." ³⁹

These doors must have been either at the sides or at the rear of the shed; at no time were rails propped up in front; the door there remained free from obstructions and was opened and closed without hindrance during and immediately after the parleys.

It therefore follows that the front door was not the only means of access to and from the tobacco house. If the Garrett boys considered Booth safely locked up, it was probably because the other doors were either blocked or hard to manipulate.

If a man escaped from the barn, another man must have entered it to take his place. Booth may have left through the upper story windows, but the mysterious stranger who, according to this hypothesis, chose to act for him, must have used a door, unless one is willing to assume that the stranger was already hidden inside when Booth and Herold retired to the barn about 9 o'clock in the evening. As the arrival of a pursuit party could not be foreseen, this assumption is hardly warranted. It may be that Booth disappeared before the soldiers came; but if he did, and if the anxiety of the Garretts for their horse was genuine, he must have escaped on foot. Crippled as he was, this would have been foolhardy. Could he have possibly left undetected in the presence of all the soldiers who surrounded the tobacco house later and stolen the horse which the Garrett boys thought they were guarding? Strange as it seems, this would not only have been possible, but easy; for the troopers were so tired that they were scarcely awake, and only six men out of twenty-five

could be made to stand on guard, watching three sides of a fairly large structure.⁴⁰

Immediately, another question presses to the fore. Given a dark night, a lonely building with exits imperfectly guarded, why did not Herold escape also? The silence that followed Booth's supposed disappearance into the night should have informed his companion that flight was possible. Then why not embrace the opportunity? True enough, there may have been only one horse—the statements of the Garretts differ—but one should think that escape in any manner was preferable to certain capture or death.

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One man who should have known the true identity of the corpse was Colonel L. C. Baker. Two detectives of his staff had been assigned the task of capturing Booth and he must have received their confidential reports. Moreover, he had all the opportunity and leisure he could wish for to study the body, even prior to the inquest.⁴¹ What Baker secretly thought has not become known, for in his *History of the United States Secret Service* he makes only a brief allusion to the proceedings on the gunboat; but a glimpse into his mind is vouchsafed to us through the memoirs of a feminine Southern spy, a Mrs. L. J. Velasquez, who was one of Baker's agents at that time and who happened to converse with him at a Washington hotel shortly after the affair at the Garrett farm.

"I . . . retired with Baker and his friend to the private parlor," Mrs. Velasquez reported, "where we could talk without being disturbed." After a little while Baker's friend said, "'I am glad that they got Booth.'"⁴²

"At this remark," the woman operative wrote, "I scanned Baker's countenance closely. He smiled, and said, 'So am I. I

*intended to have his body, dead or alive, or a mighty good substitute for it, for no common criminal is worth the reward.'*⁴³

"This was a very queer expression," Mrs. Velasquez remarked, "and it set me to thinking . . ."

Mrs. Velasquez' book was edited by a man formerly in the service of the United States Navy, who vouches for its being "true . . . in every particular."⁴⁴ What is more convincing than the editor's assurance is the date of the publication—1890. Half a generation had still to go by before the then dormant question of Booth's death would be reopened through Finis L. Bates' book. Mrs. Velasquez was not concerned about Booth and did not follow up her trend of thoughts. She drew no conclusions, and with the few words quoted dismissed the subject. This nonchalance and disinterestedness makes her recollection doubly credible.

The real meaning of Baker's remark is not easy to determine. The only justifiable deduction is that he would not have hesitated to substitute someone else in Booth's place, if the necessity had arisen. Beyond that it is not safe to go.

A curious fact about the body which was brought to Washington was the failure of the authorities to preserve any of the dead man's clothing. The relics at the War Department consist of a blue necktie, a slit riding boot and an opera glass. The latter was picked up at a neighboring farm a few days after the tragedy, the boot was retrieved at Doctor Mudd's house, and the necktie was the lone piece of clothing which was taken from the corpse. It probably was taken off when the vertebrae were removed. Suspicious as this omission on the part of the government officials seems, it may have the same simple explanation as the loosely conducted inquest: if the authorities felt certain about the identity of the dead man, a preservation of the clothes, involving a disagreeable task at best, would have been considered superfluous.

Contenders for what may be called the orthodox or official story of Booth's death have sneered at the possibility that any man could have sacrificed himself, in the cause of friendship, for fame or for other exalted motives. But if there was a man who took the assassin's place, he probably did not think he was taking undue risks. Orders had been given to bring Booth back alive; therefore a shooting on the spot could not be anticipated. Willful deceit of the pursuing party could have brought about severe punishment, but the man in the barn took great care to make no misleading statement at any time during the parley.

If the man in the tobacco house was not Booth, he certainly acted his part well. Had he been taken alive, he could have later given a good account of his willingness, not to say anxiety, to tell the detectives who he really was. He probably chuckled in anticipation of the consternation that would follow when his pursuers discovered that they had captured the wrong man. He had tried hard to show them the error of their ways, and it was only their own arrogance and stubbornness that had kept them from finding out the truth sooner.

Then someone fired an unexpected shot, and the play which had been launched as a farce turned into a tragedy. Was it disobedience to orders that brought about his death? Was it compliance with them? Or did a sudden doubt as to the fugitive's identity arouse someone in the party to quick action? It would be easier to pass off a dead body for Booth than a live impostor, and the reward could yet be saved.

Those who argue that Booth escaped and that someone else was shot in his place have a goodly number of somewhat vague points in their favor; but their arguments must rest chiefly, in the very nature of things, on suspicions and debatable inferences.⁴⁵ However, there are two tangible facts which stand out as contrary to their contentions, and for which they must find

a satisfactory explanation; *the man shot in the barn was tattooed and had a crippled leg*. One may possibly assume that Booth was replaced by a friend, and that this friend, actuated by lofty motives, looked enough like him—at least after death—to lead to erroneous identification; but that this friend was tattooed like Booth and was also suffering from a broken leg, is making a heavy demand on one's imagination and, while theoretically possible, would border on a mathematical miracle.

Critics have pointed to Doctor May's statement that the pseudo-Booth showed a broken right leg, while in reality it was Booth's left leg which had been fractured, as is proved by the boot found at Doctor Mudd's home. Even with such a discrepancy the coincidence would be far out of the ordinary. Others have gone farther than that and have put forth the belief that the man in the barn was sound in limb and that the soldiers, recognizing their mistake, deliberately broke one of the dead man's legs so as to substantiate their claim for the reward.⁴⁶

Was the man in the barn really crippled, or was it all a sham, a pretense, to carry the impersonation of Booth to the extreme limit?

In his testimony before a Congressional investigating committee, Lieutenant Baker unknowingly answered this question. "I opened the door quickly," he swore, "and the first I saw of Booth he was leaning against a hay mow, with a crutch under each arm, and a carbine resting in this way at his hip. . . . He did get up, and dropped one crutch . . . He saw the door open, and he turned and dropped the other crutch and started towards the door."

Q. How started?

A. *With a kind of limping, halting jump*. He used his leg, instead of the crutch. . . .⁴⁷

This seems to settle the argument. A man in imminent danger

of either death or capture would not carry on with the deception. Death would have made it ridiculous, and capture would have undone the show of bland honesty displayed heretofore.

Supposing, however, that Lieutenant Baker was mistaken in his observation, or that the deception was carried on by the man in the barn, and that he was not a cripple; then everyone on board the *Montauk* was fooled, or else conspired to conceal the truth, including Doctor Barnes, the army's chief surgeon, Doctor May, and all those who were permitted to see the uncovered body. A leg broken after death certainly would not deceive a physician; it is doubtful if it would have deceived the war-seasoned soldiers.

The broken leg of the corpse on the *Montauk* and the initials on its hand are manifestly the greatest obstacles with which the proponents of Booth's escape are confronted. Until they can explain them more satisfactorily than through a series of almost unbelievable coincidences, they must fight a defensive battle. But if positive proof should be produced that Booth actually lived after the episode at Garrett's farm, then the burden of proof will be on the champions of the orthodox version, and their position will be equally difficult.

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The stories of Booth's alleged reappearance, after his death had been officially proclaimed, are too numerous to mention. There are in existence stacks on stacks of affidavits from respectable people who are sure that they saw Booth in later years and spoke to him in various parts of the world. Some of these tales have been investigated, and the men mistaken for the assassin were fully identified.⁴⁸ To judge from the numbers of arrests made by the authorities between April 15 and April 26, quite a

few people apparently looked enough like the young actor to pass as his double.

One story may illustrate the fallacy of placing too much confidence in mysterious doubles. Miss Blanche DeBar Booth, a niece of John Wilkes, told of a weird experience of John Wilkes' older brother, Edwin Booth, who was playing in England several years after the events of 1865. He had just left the theatre in a carriage, when his mother, who was in his company, uttered a cry of anguish: "Johnny! There goes Johnny!" Only with difficulty was she restrained from jumping into the street. Edwin followed the strange apparition. He overtook the man of mystery and spoke to him, but never revealed what he had found out, nor would the Booth family discuss the incident afterward.⁴⁹ It was easy to argue that the man must have been the escaped assassin, because no mother could be mistaken in identifying her son.

Nonetheless, there may be a simple explanation even to this persuasive story. In 1920 the New York *World* published an interview with the widow of a Civil War veteran, one Lieutenant William C. Allen.⁵⁰ Mrs. Allen told the reporter that her husband had been the living image of Wilkes Booth. They were both handsome, had the same features, "even the same soulful eyes." Several years after the assassination, Lieutenant Allen found himself in London at the same time that Edwin Booth was playing in the British metropolis. Allen and a party of friends had attended one of Booth's Shakespearean performances and, on leaving the theatre, decided to play a practical joke on the actor. The group went around to the stage door, where a cab was waiting to take away the star. When Booth came out to seat himself in the cab, a solemn face appeared for a moment at the window. It was "a face from the grave—hatless it was, with wavy hair, the luminous brown eyes, the aristocratic features" of his younger brother.

“ ‘Wilkes!’ gasped the actor. ‘Wilkes.’ ”

But the vision faded into the fog of London.

Whether Mrs. Allen’s story is true or not has not been established;⁵¹ but it demonstrates that an apparently convincing, mystifying occurrence may have an explanation which is both natural and conclusive, once it is known.

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Of all the claims that Booth lived long after the tragedy in Virginia, two have aroused wide attention. One is what may be called the Enid legend, the hero of which is one David E. George who died in Oklahoma in 1903, and whose mummified body is being shown at various exhibits as that of the assassin.⁵² The other concerns the grandfather of Izola Forrester who, she is convinced, was none other than Booth. Her impressions have been embodied in a recently published volume.⁵³

The alleged mummy of John Wilkes Booth, embalmed at Enid, Oklahoma, in 1903, has been examined by many people, but with indifferent results. X-ray photographs taken in 1931 were submitted by the author to the late Dr. Otto L. Schmidt (at one time president of the Chicago Historical Society) and to an X-ray specialist, the late Dr. Lewis L. McArthur of Chicago. Neither would offer a definite opinion regarding the leg injuries shown on the picture, by which light was to have been thrown on the mummy’s identity. The existence of a scar on the neck is positively affirmed by James N. Wilkerson of Kansas City, and denied with equal emphasis in a letter to the author by Mr. Leonarde Keeler and Dr. C. W. Muehlberger, of the Northwestern University Scientific Crime Detection Laboratory.

About December 31, 1931, Messrs. Keeler and Muehlberger of the Northwestern Crime Detection Laboratory staff were invited . . . to make an examination of a mummified body. This examination was

to be made at the x-ray laboratory of Dr. Orlando Scott, 330 So. Wells Street, Chicago, and was for the purpose of detecting scar tissue on the back of the neck of the mummy. Mr. Keeler and Mr. Muehlberger went to Dr. Scott's laboratory that evening bringing with them a Hanovia quartz mercury vapor lamp fitted with a Woods filter for the purpose of absorbing those rays emitted by the glowing mercury vapor which are visible to the eye. It has long been known that scar tissue when examined in filtered ultra-violet light fluoresces a lighter color than normal skin and takes on a pale lavender color.

On arriving at Dr. Scott's office they . . . were shown the mummy. This mummy was suspected of having been that of John Wilkes Booth . . . Inasmuch as John Wilkes Booth was said to have had a scar on the back of his neck, the examination was made to confirm the identity of this mummy. At the time of the examination, the back of the neck of the shriveled and dry brown body showed no gross evidence of a scar when examined by the naked eye in ordinary artificial light. When examined in ultra violet light there was no difference in fluorescence of any part of the back of the neck. . . .

(Signed) Leonarde Keeler
C. W. Muehlberger

July 18th, 1936.

On the other hand, certain characteristics of Booth, such as his size, the shape of the head, the position of the ears, and the long hands are also evident in the mummy.

An attempt has been made to solve the mystery of the Enid mummy by comparing the size of its feet with the size of the riding boot taken from the fleeing assassin at Doctor Mudd's house. This comparison involved some intricate problems. Possible shrinkages of an embalmed limb as well as that of a boot over a period of seventy years had to be considered. So far as the latter problem is concerned, it is complicated by lack of knowledge of the tanning methods used on the leather which went into this particular piece of footwear. The boot was made

in 1864, just when the United States had begun to free itself from the importation of French leather, due to wartime conditions. Moreover, the exact atmospheric conditions under which it was stored are unknown, and finally, no comparative data on other shoes are available for such a length of time. An evaluation of all these factors is necessary, and the conclusion is therefore subject to some errors; but at the worst the shrinkage, if any had occurred, would, in the minds of experts, be negligible.⁵⁴

The opinion among medical authorities is general that human bones do not shrink except under extraordinary conditions.

If the foot of the mummy and the boot at Washington differed by inches, as was possible, the controversy would have been at an end. The measurements showed, though, that the foot fits exactly into the boot. A negative result would have been decisive; a positive one is meaningless. Millions of men who have died since the turn of the century would show foot sizes to fit the relic in the War Department at Washington.

Another item of importance which should help toward a correct appraisal of the Enid mummy is the tattoo mark on Booth's wrist. According to his sister Asia, this India ink marking had existed since his childhood days, and it was admittedly fully preserved when the actor was twenty-seven years old. The mummy shows no trace of any such markings on either hand; yet, tattooed India ink marks cannot be eradicated without leaving visible tracings.⁵⁵

Investigations into the identity of the Enid mummy were made by William Shepard for *Harper's Magazine*⁵⁶ and by Fred L. Black for the *Dearborn Independent*.⁵⁷ Shepard's effort may be classed as a brilliant journalistic exploit, but without much historical value. After interviewing Finis L. Bates and seeing the corpse, he conceded Bates' sincerity; but in the end he con-

cluded that the claim was false, because the signature on a check written by the supposed Booth shortly before his death did not resemble the handwriting of the real Booth, as reproduced from the latter's diary.

"Putting the check and the diary side by side, I had my proof," Shepard announced.⁵⁸ "Different hands wrote that check and that diary. . . . That afternoon . . . I ended, to my own satisfaction, the Enid legend. . . ."

It is true that the two handwritings bear no resemblance to each other. But does this end the argument? We are dealing here with an accomplished actor, trained to dissimulation, in the habit of assuming the characters of other people, with forty years' time in which to practice a new handwriting. Not applause from an audience, but his very life depended on success. Booth was a man of both intellect and will power and could conceivably have accomplished a complete change in his handwriting. On these grounds Shepard's conclusion cannot be accepted as final.

Black's work was of a much more thorough nature, and brought to light many pertinent facts. Unfortunately, he spent a great deal of his time and space on the man Bates and his unreliability; he even showed that the erstwhile friend of John St. Helen (the name under which Bates claims to have known Booth) had not hesitated to misquote if it suited his purpose. The investigator for the *Dearborn Independent* showed that St. Helen, in his opinion, was not Booth; but he devoted only a small portion of his published results to the problem of the Oklahoma suicide who, it must be admitted, could have been Booth without having been St. Helen.

Nevertheless, the facts which Black unearthed are interesting. First he discovered a letter written by the mysterious Mr. George, and disposed of it by saying that "a careful comparison shows no similarity in the handwriting," using a page from

Booth's diary as his standard. This deduction, as has been noted before, is questionable. It is the more so as the handwriting on the letter differs as much from that discovered by Shepard as both of them differ from Booth's. Even D. E. George's acknowledged signatures do not show much resemblance to each other.

Black obtained a statement from the former chief of police of El Reno, Oklahoma, who remembered George well. He described him as tall, with evenly matched eyebrows and as walking without a limp. As the mummy is not that of a tall man, has uneven eyebrows and shows one leg to be shorter than the other, this testimony must be ruled out. The most damaging fact to Bates' theory unearthed by Black relates to the color of the dead man's eyes. One William J. Ryan, who embalmed the body of George, assured Black that the eyes of the corpse were blue or blue-gray.⁵⁹ Booth is known to have had black eyes, and as the color of black eyes is caused by pigmentation, their appearance does not change after death. Black also comments correctly on the allegations that one of Booth's thumbs was deformed and that one eyebrow was arched. Neither of the injuries which were said to have caused these abnormalities are thoroughly authenticated, and they were not mentioned in any newspaper accounts at the time of the assassination.

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Izola Forrester's claim to be Booth's grandchild lacks proof; yet, her book brings forth many strange and interesting coincidences. While it is impossible to disprove her thesis, Miss Forrester finds it equally difficult to present her case as anything more than a family tradition.

"I realize that there are gaps in my story," she admits.

Of known evidence, a letter to Booth from his mother writ-

ten in 1865, throws doubt on her story. In this letter Mrs. Booth told the young actor to marry his fiancée, Miss Hale, if he were sure of his love for her. If Booth had actually been married since 1858, as Miss Forrester contends, his engagement to Miss Hale in 1865 and the fact that he misled his mother and the rest of his family, are contrary to his recognized honorable conduct toward all women.⁶⁰ In spite of these arguments, Miss Forrester's book can not be dismissed by a wave of the hand and deserves further investigation.

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The champions of the Enid theory and those who accept that of Miss Forrester, have on their sides some points which, when strung together, lend some plausibility to their contentions. Both base their beliefs on alleged identifications and queer incidents which form a definite pattern.

If either Bates or Miss Forrester is right, the other must be wrong. This alone undermines the soundness of both cases; and how dangerous it is to build theories on circumstantial evidence, especially where identifications are involved, is proven by a strange episode which happened in Washington at the end of the civil war.

An unknown man, apparently suffering from loss of memory and power of speech, was found in Tallahassee, Florida, when the United States troops occupied that place. He had been there about fifteen months and nothing of his history was known at the Southern state capital.

The man was transferred to the government hospital for the insane at Washington, and his description published in Northern papers. In August 1867, a Mrs. Houghton from upper New York identified him as her husband. Thereupon a commission consisting of Surgeon General Barnes, Assistant Surgeon Gen-

eral Crane and Doctor Nichols, superintendent of the hospital, was appointed to look into the case. General E. D. Townsend, Adjutant General of the United States Army, and Mrs. Houghton were also present. The result of the examination was embodied in a certificate signed by all the medical men: they were satisfied that the unknown man was Thomas B. Houghton, late a private in the 104th New York Volunteers.

The alleged Mr. Houghton possessed more singular marks of identification than did even John Wilkes Booth. He had a mole on his back, and the woman claiming to be his wife put her finger on the exact spot of his outer garment, describing with complete accuracy the size, shape and appearance of the "mother-mark", as she called it. She then described a scar under the man's hair, and one on the foot, both of which were verified. The doctors had been puzzled by three remarkable scars across the upper part of one shin. Mrs. Houghton recalled that her husband had at one time slipped from a stool while holding a saw and had thus injured his leg. She further explained some clusters of small scars on the man's breast and back as marks of a skin eruption.

Locks of hair from Mrs. Houghton's husband, when compared under the microscope with the hair of the patient, were found identical in tint and texture. The color of the eyes, a singular light blue, was the same as in a picture of her husband which Mrs. Houghton produced. The daguerreotype also showed a remarkable taper of the fingers; the thumbs were long and delicately pointed—an exact counterpart of the unknown man's hands. Mrs. Houghton mentioned that her husband had a habit of twirling his thumbs, and the mysterious stranger was found to have the same inclination. The woman further stated that her husband's toes were bent; examination revealed the same deformation in the patient.

There was only one fly in the ointment. The stranger would not recognize Mrs. Houghton, nor could he be induced to talk.

But after a year and a half he spoke, affirming with some hesitation that his name was Houghton and that he thought he hailed from New York.

By request of his wife the patient was left in the hospital until he grew robust in health. Then one day he suddenly regained his memory. He scoffed at the idea that his name was Houghton. He was an overseer of a plantation in Georgia, he said, had gone to Florida on business, and had lost his mind while there. The shocked authorities in Washington notified the Southern friends whom the recovered patient had mentioned and found to their amazement that his claims were correct. In fact, eventually all his assertions were fully borne out, and soon the alleged Mr. Houghton went home, taking with him an almost unbelievable record of misleading coincidences.⁶¹

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Summarizing all factors bearing on the puzzle of whether Booth escaped or was killed at Garrett's farm, only a few facts stand out as either proven or even well authenticated.

Booth was a guest of the Garrett family and returned there for supper on the evening of April 25.

It was Booth who retired into the tobacco warehouse with Herold.

The tobacco warehouse had more than one door.

Booth could have escaped from there during the siege or previous to it.

The preponderance of Herold's testimony shows that he thought Booth had been killed.

The man who was shot in the tobacco shed had a broken leg.
The body on the *Montauk* had a broken leg.

The body on the *Montauk* had the initials J.W.B. tattooed on

one hand. These tattoo marks tally with those Booth is known to have had since his childhood.

The body on the *Montauk* had a scar on the back of the neck, similar to the one Booth was known to have, but one witness described the face of the dead man as freckled, and Booth had never been known to have freckles.

The body of the suicide at Enid, Oklahoma, presents some similarities to that of Booth, but lacks other identifying features.

The story of Izola Forrester that Booth escaped is plausibly presented, but not proven.

There remains today only one apparent possibility of settling the identity of the man who was buried as John Wilkes Booth in the family plot at the Baltimore cemetery. If the body were disinterred and decomposition of the cavalry boot on the sound leg has not proceeded too far, a comparison of this piece of footwear could be made with the one taken from the fleeing actor at Doctor Mudd's house and now preserved at Washington. If the two boots should be exact mates, and if both should show Booth's name and that of the manufacturer inscribed in identical manner, all further controversies on this intriguing subject would come to an end. This test would have been easy in 1865 and again when the body was reinterred at Baltimore. That it was not made is unfortunate, but it may not be too late now to carry the thought into execution, should anyone be interested enough to undertake it.

Pending further developments, the contenders for the orthodox theory have by far the better case, although it does not stand proven. The man identified on board the *Montauk* had, just like Booth, a scar, a broken leg and singular tattooed initials on his hand. Together these three outstanding features justify a strong, although not necessarily unassailable presumption that the corpse was really that of the assassin. The riddle of the unexplained freckles is perhaps its most serious defect. There are

other factors of moment which partly weaken and partly strengthen this presumption. But those opposed to it cannot expect to rest their cases on the weak points of the other side; they must bring forth positive evidence of their own, such as a photograph of Booth, unquestionably taken after April 1865, or a letter written by him at a later date. Provided those who declared having seen the actor or entertained him following his official burial have the truth on their side, supporting evidence of a tangible nature must exist. If it is ever presented, it should be carefully weighed and judged according to whatever merit it may possess.

☆ V ☆

AMONG those who were tried for the crime of Lincoln's death, the outstanding figure was that of a woman. Her name was Mary E. Surratt. At the time of the assassination she was conducting a boarding house which she had opened only a few months before; her previous married life and widowhood had been spent in operating a farm tavern at Surrattsville, some ten miles south of the capital.

A combination of events, harmless in themselves, wove a net of circumstantial evidence around this unfortunate woman and carried her from contented obscurity through the limelight of a military trial to an inglorious death.

V

Mrs. Surratt's Boarding House

MRS. SURRATT'S life on the farm had not been a bed of roses. The little settlement of Surrattsville, lying on a back road through a sparsely settled country, offered few attractions. Louis Wiechmann, a schoolmate of Mrs. Surratt's younger son John, visited there in March, 1863,¹ and gave his impressions to a reporter a few years later.²

"It was on a Friday afternoon in March," he said, "rainy and dreary, when . . . I went down to Surrattsville with John. He came for me in a buggy, and the road was so rutty and miry that we were four hours on the way. On coming in sight of the house I was miserably disappointed. The theme of so much panegyric was a solitary farm tavern at a crossroad, a few sheds and barns around it and a hitching stall, and a peach orchard reaching behind. The farm consisted of 300 acres, and it was afterward let, with the tavern, for \$600 a year. A small porch stood in the middle, on which opened a hall reaching quite through the house. At the foot of this hall . . . was the bar-room and post office, with a door opening upon one of the cross-roads . . . Altogether there were eight rooms comfortably furnished."

The stage coach from Bryantown to Washington passed by the lonely country tavern, and a postman would come that way on his regular rounds, bringing with his mail such gossip as he had gathered in the out-of-the-way southern Maryland counties.

After the death of the elder Surratt, John, then a lad of only eighteen, became postmaster of Surrattsville. He had studied at St. Charles College, near Baltimore, but had left school in 1862 in order to help conduct his mother's affairs. His character had been excellent. On leaving college, he shed tears, but the president told him not to weep; that his behavior had been so fine during the three years he had been there that he would always be remembered by those in charge of the institution.³

The elder brother, Isaac, had joined the Confederate army in 1861 and was then reported fighting in Texas. In the same year, the youngest of the three children, Anna, returned from her school in Bryantown where she had been since 1854.

That John did not like his surroundings is plain from letters which he penned from time to time. On November 12, 1864, he wrote to Wiechmann:⁴

. . . Been busy all the week taking care of and securing the crops. Next Tuesday, and the jig's up. Good by, Surrattsville. Good by, God forsaken country. . . .

And this to a cousin at Steubenville:⁵

You ask me if we have warm weather in Maryland, My Maryland. If you have it to such a degree as you represent it, up North, what must it be in our hot-headed South? . . . Yes, Cousin Bell, it is so warm, that we can neither eat, sleep, sit down, stand up, walk about, and in fact . . . it is too warm to do anything . . .

John also had to keep the bar for his mother and apparently detested this occupation and the associations it brought with it.⁶ Eventually he became a dispatch-bearer for the Confederate government and thereby escaped the monotony of life at Surrattsville.

Mrs. Surratt was a good-hearted woman. One of her colored servants, Eliza Hawkins, who had lived with her six years, so

testified at the Surratt trial.⁷ Eliza was a slave, but did not belong to Mrs. Surratt and had only been hired out to her.

"You were attached to them [the Surratts]?" the colored woman was asked by a hostile prosecutor.

"Very much attached to them," she replied. "I would have been with them till this day if I could. . . . they treated me right; I certainly had the right to be so."⁸

Another colored servant, Rachel Semus, who also had lived at the Surratt tavern for six years, stated that all the help had been treated with great consideration and that Mrs. Surratt's kindness had extended beyond the family circle. When Union soldiers passed through the lonely settlement, the widow fed them, and fed them well.

"I know she always tried to do the best for them," declared the negro girl and elucidated the remark with pardonable pride, ". . . because I always cooked for them." Then she added, "very often she would give them all she had in the house . . . I recollect her cutting up the last ham she had . . . I never knew of her taking any pay for it. . . ."⁹

Mrs. Surratt's brother confirmed her hospitable traits.

"I have known her frequently to give milk, tea, and such refreshments as she had in her house, to Union troops when they were passing," he testified. "Sometimes she received pay for it; at other times she did not." Even dumb animals in distress would arouse his sister's sympathy. "I recollect," he said, "when a large number of horses escaped from Giesboro [a market place and hospital for horses near Washington], many of them were taken up and put on her premises. These horses were carefully kept and fed by her, and afterwards all were given up. She . . . never got any pay, to my knowledge."¹⁰

Mrs. Surratt was a religious woman and counted her beads a great deal. She was not a born Catholic but a convert, and her husband had been a Protestant until his death in August, 1862.

There were three or four negroes about the place, but few near-by neighbors. Mrs. Surratt's brother, J. Z. Jenkins, lived a mile and a half away on the way to Washington. The road which passed the tavern led to no large settlements and was quite deserted. "It was a dull, crossroads' existence . . ." Wiechmann concluded after his first visit.¹¹

Yet, it was probably not dullness, but lack of income, that made Mrs. Surratt leave for Washington where, on November 1, 1864, she opened a boarding house at 541 (now 604) H Street, N.W. It was a house containing ten rooms. The two rooms on the street level were respectively the dining room and the kitchen. The remainder were used as bedrooms.¹²

The first roomer in the new boarding house was John's erstwhile chum at college, Louis J. Wiechmann who, a few months later through his testimony at the conspiracy trial was to bring death and disgrace to the Surratt family. He had quit his studies for the priesthood in 1862 and taken a position at St. Matthew's College in Washington where he had taught for about a year. It was not much of a school, in his opinion.¹³

"I received only thirty-five dollars there," he recalled later, ". . . the duties of a teacher were not only exacted of me, but there was no man there to sweep the room, and the students under my charge . . . were compelled to sweep up. . . ." There was only one other instructor at the school, but "I considered myself the principal teacher," Wiechmann declared, "because I taught up stairs and he taught down stairs. . . . he had the little boys with bare feet."

On January 9, 1864, Wiechmann obtained a position paying him eighty dollars a month as clerk in the office of the Commissary General of Prisoners. This made it possible for him to move into the Surratt boarding house. He had no reason to regret his choice, for he was immediately accepted as a friend of the family.



The Surratt Tavern in 1867.
(From Harper's Weekly, 1867.)



The former Surratt Tavern at Clinton (Surrattsville), Md., 1933. Rear view.
(From the author's collection.)

During the trial of John Surratt in 1867 he was asked how his landlady had treated him.

"She treated me kindly," was his response.

Q. Had you not, in her house, the freedom of a son almost?

A. Yes, sir.

Q. Were you sick at any time during your stay there?

A. I was sick for a short time one night.

Q. Were you not nursed and attended as though you were her son?

A. Yes, sir.¹⁴

"Mr. Wiechmann was . . . but too kindly treated . . ." commented Anna Surratt sadly. "It was my mother's habit to sit up for him at night, when he was out of the house; she would sit up and wait for him the same as for my brother."¹⁵

The intimacy between young Surratt and his college friend made them share not only room and bed, but also many of their belongings. Wiechmann was in the habit of bringing office stationery home, and Surratt was not loath to use it for his private correspondence. Perhaps he thought it would impress his female friends if they received epistles under the caption, "Office of the Commissary General of Prisoners, Washington, D. C." At any rate, he did use these letterheads.¹⁶

By December 1, Mrs. Surratt was ready to serve meals—only two of them daily—and want ads for boarders were inserted in the *Washington Evening Star* on November 30, on December 8 and again on December 27. They were evidently successful, for no further solicitations for customers appeared after that. Every available space in the house was used. Mrs. Surratt occupied the back parlor as her bedroom; it was separated from the parlor only by a folding door. She slept in one bed with her daughter and with another young lady of about seventeen, Miss Honora Fitzpatrick. When, shortly before the Easter holidays, another lady visitor put in an appearance, the two girls and one of Anna's

cousins, Olivia Jenkins, were moved to the garret, which was sometimes politely referred to as the third story.¹⁷ Wiechmann's room contained a bed, a table, a closet and a mirror. Three trunks made up the rest of the furnishings.¹⁸ The front parlor of the floor was in possession of a Mr. and Mrs. Holahan, who were considered wealthy, and whose little daughter had a room on the same floor, while the colored maid slept sometimes in the attic, in a little room next to the young ladies, and sometimes in the kitchen. It must have been a crowded place, this drab-colored brick boarding rouse on H Street,¹⁹ devoid of modern sanitation and of many luxuries, although the parlor boasted a piano on which Anna would occasionally play for the entertainment of the guests.

Housekeeping, on H street, between 6th and 7th sts. dec 8 21*
TWO FURNISHED ROOMS, suitable for two or four gentlemen, at 541 H street, between 6th and 7th sts. d 3-St
FOR RENT—A three story brick HOUSE, No. 350 C street, between 6th and 7th sts. d 3-St

Good be
 No. 350 C street, between 6th and 7th streets Terms moderate. Apply within. de 27-31
FOR RENT—Two FURNISHED ROOMS on second floor, suitable for two or four gentlemen, in a pleasant locality. Terms moderate. Apply at 541 H street, between 6th and 7th sts. de 27 6t
FOR RENT—Two handsomely FURNISHED ROOMS, Parlor and Bedroom, together with a few

For colored persons, on H street, between 6th and 18th streets. nov 30-21*
FOR RENT—Two FURNISHED ROOMS in a private family, at 541 H street, between 6th and 7th, suitable for 4 gentlemen. n 30-31*
ONE FRONT ROOM FOR RENT, furnished or unfurnished. Inquire at 541 H street. at tru lay

Mrs. Surratt advertises for roomers (*Washington Evening Star*, November 30, December 8, December 27, 1864).

The rooms were adorned with many small pictures, some of which stood on the mantelpieces, while others formed the contents of three or four albums that were lying about.²⁰ Photographs of Jefferson Davis, Stephens and Beauregard were among them, but the opposing side was also represented by likenesses of Grant, Hooker and McClellan. One day Anna Surratt and Honora Fitzpatrick saw two pictures of Booth in a photographer's gallery and bought them. When Anna's brother John found out what the young ladies had done, he told his sister to tear up the pictures of the actor, else he would take them from her. Anna pretended to give in, but hid her precious possessions behind a lithograph, "Morning, Noon and Night," where detectives later found them.²¹ It would have been well for Anna had she obeyed her brother's injunction for, unfortunately, there also was hanging on one wall a picture in colors with the arms of the State of Virginia, showing two crossed Confederate flags and flaunting the inscriptions,

"Thus will it ever be with tyrants."

"Virginia the mighty."

"Sic semper tyrannis." ²²

Lincoln's assassin had used these last three words on the fatal night, and therefore they, in conjunction with Booth's photographs, undoubtedly carried much weight with the detectives of the War Department.

The Holahans moved in about February 1, at which time Wiechmann and a little girl named Dean were the only paying boarders, although others were also staying in the house as guests.²³ Mr. Holahan was evidently a man of many money-making talents. During the war he was what was known as a bounty broker, procuring substitutes for drafted men, but later he worked in the Treasury Department, in the Patent Office and at the Insane Asylum. After these experiences he went to the Government Printing Office, and when work there became

scarce, he took to peddling tea, sugar, bread and liquor. In 1867 he was in the stonecutting business, making tombstones.²⁴

An Irishman by birth, Holahan proved to be one of the most entertaining of witnesses at the conspiracy trial and in the Surratt case. He was afraid of no one and often disarmed his adversaries by a real or assumed ingenuousness. At one time, when he was constantly interrupted by objections, he said lightly,

"I will make my statement, and then you can object to what I have said." Everyone in the courtroom joined in the ensuing laughter.²⁵

Mrs. Surratt's hospitality was a constant obstacle to the financial success of her establishment. Persons were in the habit of coming from the country and stopping at her house; sometimes they paid for their accommodations, sometimes they didn't.

Even Wiechmann admitted his landlady's generosity.

"Mrs. Surratt was always very hospitable," he said, "and had a great many acquaintances, and they could remain as long as they chose."²⁶

Anna Surratt once described in quaint phraseology the lack of system in the conduct of her mother's affairs. "A great many [guests]," she said, "came . . . for rooms . . . some stayed a few days and some did not come at all."²⁷

Visits by strangers were often of a political nature, and even though Mrs. Surratt may not have been aware of it, Wiechmann was.

"This Weichman [Wiechmann]," wrote a government agent later, "furnished to the sympathizers of the Confederacy all the data or information attainable in that office, and for this reason blockade runners and others would call at Mrs. Surratt's residence to receive the information from Weichman."²⁸

Mrs. Surratt must have felt quite lonely in her new surroundings. There were few social callers. Father Wiget of St. Alo-

ysius Church and other priests would come at intervals, as did sisters of charity. Mrs. Dean, whose eleven-year-old daughter was boarding with Mrs. Surratt, dropped in once in a while, or the Kirby's, neighbors and relations by marriage.²⁹ Regular attendance at the nearby St. Patrick's Church on 10th and F Streets brought some inspiration to Mrs. Surratt's pious soul, and on Sundays it was a special treat for her to walk all the way to St. Aloysius Church, near the railroad station.

Now and then an unusual visitor would bring some little excitement into the household. In February, 1865, a blockade runner named Howell came and went, probably telling the household of his travels and narrow escapes. He treated the male members of the house to liberal portions of whiskey which the obliging Wiechmann brought in, hidden under the cape of his military cloak.³⁰ A female blockade runner, one Mrs. Slater, made Mrs. Surratt's her stopping place for one night in March.³¹ She was a slim, delicate woman, with black eyes and dark hair and wore a veil down to her chin. Mrs. Slater was a North Carolinian by birth, but spoke French well and could therefore invoke the protection of the French government if she played her role properly. She departed in a carriage drawn by two white horses, accompanied by Mrs. Surratt and her son. Mrs. Surratt returned the next day, but the young man continued on with Mrs. Slater to share her adventures, of which there were many in store for them—barbarities even, if we are to believe a somewhat unreliable witness.³² According to him, Mrs. Slater and her escort, joined by four or five others, managed to cross the Potomac after some trouble. A gunboat stopped them and sent out a dinghy to investigate; the blockade runners waited until the little vessel came alongside of them and then fired right into the faces of the crew, escaping to the shore in the resulting confusion. After that they traced a solitary Union telegraph operator through the ticking of his instrument and killed him.

When they got south of Fredericksburg and were being pushed on a flat car along the railroad, they saw coming toward them some starved Union prisoners who were painfully making their escape toward the Federal lines.

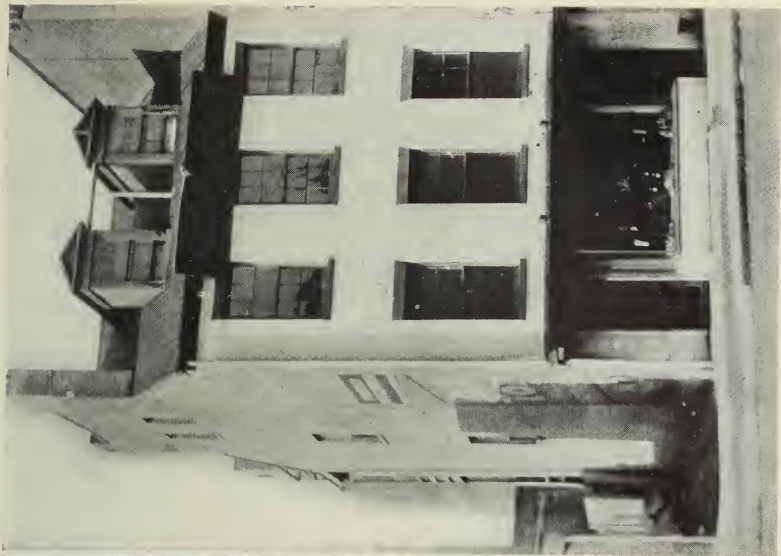
"Let's shoot the damned Yankee soldiers," the little lady is said to have exclaimed. Everyone in the party then drew a revolver, and when the slaughter was over the bodies were left where they had fallen.

There was one boarder in her house of whom Mrs. Surratt did not approve, and that was George Atzerodt,³³ one of the conspirators in Booth's pay. To Mrs. Holahan she confided that the slovenly German aroused her dislike, and that she would rather not have him board with her. She had found a bottle of whiskey in his room, and this was against the rules of the house. After he had left, mother and daughter both voiced their desire not to have him return. Anna's expression was that she did not care about having such sticks brought to the house, they were not proper company for her; but in spite of her aversion to this uncouth German, Mrs. Surratt at one time was seen to lend him the last five dollars she had in her pocket.³⁴

One day in March an unusual-looking man stopped at the establishment. He was tall and straight and of an athletic build. His eyes were wild and slightly crossed, his black strands of hair long and unkempt. He brought no baggage and represented himself as a Baptist preacher by the name of Wood. But when he died on the gallows a few months later he was known as Paine. There was quite a discussion among the women why a Baptist preacher should seek out a Catholic boarding house. In the end, they decided that the circumstances were just as odd as the man himself and laughed about it. Mrs. Surratt thought he was a great looking preacher and that he would not save many souls.³⁵



Mrs. Surratt's House in 1865 at 541 H Street,
N.W., Washington, D. C.
(From a Brady original.)



Mrs. Surratt's House in 1933, now 604 H Street, N.W.
(From the author's collection.)

When John Wilkes Booth stepped into this commonplace household he must have brought with him the halo of a fairy prince.

"But hark! the doorbell rings, and Mr. J. W. Booth is announced," wrote John Surratt to one of his cousins. "And listen to the scamperings . . . Such brushing and fixing."³⁶ Small wonder. The famous theatrical idol would conquer anywhere, what with his easy grace, his beauty and his generous distribution of free tickets to the Washington playhouses.

With the conspirators meeting at her house, the clouds over Mrs. Surratt's head were beginning to gather, though she was unaware of them. She had no inkling that her son's visitors were laying plans for the abduction of the President. Had she known of the plot, she might have reported it to the authorities. On the day before his execution, the conspirator Paine expressed the desire to make a complete statement to that effect, to be taken down by an official court reporter.

"He desired," so one of the reporters wrote,³⁷ "to exonerate Mrs. Surratt from any connection, near or remote, with either the conspiracy to abduct or kill the President. This statement, we were told, he would swear to, knowing he was about to die.

"On one occasion, it seems, Booth, Atzerodt, and other conspirators were the guests of John Surratt, and were discussing plans for the abduction. Mrs. Surratt entered the room just as some remark was made that might excite her suspicions. John Surratt, who was sitting by the door through which she entered, her back being toward him, sprang to his feet, and, with forefinger to his lips, motioned for silence. The moment Mrs. Surratt left the room he cautioned the party to be more careful, and under no circumstances even to hint at anything which was going on, for his mother, if aware of the plot, would give the whole thing away and ruin them all."

Then some commonplace business matters, as if directed by

an unkind fate, came to a head just at the time of Lincoln's assassination and wove some more meshes into the net which was closing in on Mrs. Surratt.

Mr. Surratt, ten years before his death, had sold some real estate to one Mr. Nothey and the latter still owed Mrs. Surratt a balance of \$479.00. On the other hand, Mrs. Surratt had inherited an indebtedness of her own on some land which her husband had acquired from a Mr. Calvert, and the latter had obtained two judgments against her in the county court.

On April 11, three days prior to the tragedy in Washington, Mrs. Surratt drove out to see Mr. Gwynn, her business manager, who lived near Surrattsville, and both of them had a conference with Mr. Nothey at the Surrattsville tavern about the payment of the overdue sum of money.³⁸

The next day, Mr. Calvert's son, who had inherited his father's estate, mailed an urgent request to Mrs. Surratt.

"However unpleasant," he wrote, "I must insist upon closing up this matter, as [it] is imperative . . . You will therefore please inform me at your earliest convenience as to how and when you will be able to pay the balance . . ." ³⁹

This missive reached Washington on the 14th and caused Mrs. Surratt's ill-fated trip to her farm on that day. There she handed Gwynn a letter, with a request to read it to Nothey. In this communication she threatened to bring suit against her delinquent debtor unless he would settle within ten days; on her own part, she said, she intended to pay Mr. Calvert without further delay.

It was when leaving the tavern in the afternoon that her tenant Lloyd returned and talked with her for a few moments, swearing afterward that Mrs. Surratt had told him to get some shooting irons ready; even so, no conversation with the drunken inn keeper would have taken place, had not the buggy broken down

Ex. No 68

Riversdale

April 13th 1865

Mrs M. E. Surratt

Dear Madam

During a late visit to the lower portion of the County I ascertained of the willingness of Mr Nothery to settle with you, and desire to call your attention to the fact in urging the settlement of the claim of my late Father's Estate. However unpleasant I must insist upon closing up this matter, as is imperative in an early settlement of the Estate, which is necessary. You will therefore please inform me at your earliest convenience as to how and when you will be able to pay the Balance remaining due on the land purchased by your late husband —
I am, Dear Madam, Yours Respectfully
Geo W Calvert Jr

Photostat of Calvert's letter of April 13, 1865, to Mrs. Surratt, proving that she had business in Surrattsville on the day of the assassination.

(Original in the War Department Archives.)

just at the moment of departure. For this unfortunate combination of circumstances Mrs. Surratt paid with her life.

The fact that Mrs. Surratt had gone to Surrattsville to write her letter to Mr. Nothey was held to be another damaging piece of evidence against her.

"She could as easily have written . . . from Washington as from Surrattsville," commented one of her judges many years afterward.⁴⁰ But Gwynn had been a party to the transaction, according to his own sworn testimony, and all settlements would have to go through him. He started to emphasize this at the Surratt trial, but the prosecuting attorney interposed a quick, "Never mind that;" and when Gwynn testified that Mrs. Surratt "had started to come to my house," he was interrupted with "You need not tell what she said."⁴¹ The defense evidently did not sense the importance of the testimony which was thus being suppressed, for what Mrs. Surratt had said would have made it plain that she had not intended to see Lloyd at all.

Mrs. Surratt's counsel might have advanced another argument for her trip to Surrattsville. She was most likely glad of the chance to see again the open fields in the bloom of early spring after months in the crowded capital, where she still felt a stranger. She was gay and lively on her ride through the countryside and several times broke out into hearty laughter.⁴² Even if her affairs could have been settled by mail, who knows but that she brushed aside this alternative for the sake of a holiday? Yet, at least one of the judges considered this trip a good reason to hang her.

The death of President Lincoln changed the affairs of the boarding house on H Street abruptly. The next morning the house found itself bereft of its male roomers. John Surratt was in northern New York, Wiechmann and Holahan at the service of the police. On April 16, Mrs. Holahan moved out, although

she was not allowed to remove her belongings until two weeks later; the night following, all the remaining ladies were arrested. On Tuesday, April 18, detectives took over the entire building, herding the servants in the dining room for occasional questioning, while the entire house was being searched.

Mrs. Surratt, kept apart from the other prisoners, was subjected to the most intense questioning on the part of War Department officials. When one of them, Colonel Olcott, conducted his inquiry on April 28, he tried also to involve her daughter Anna in the conspiracy net; but Mrs. Surratt parried his thrusts well.

Q. Did not an attachment spring up between him [Booth] and your daughter?

A. Not particularly, I should suppose. Not that I knew of.

Q. He was a handsome man?

A. He was a handsome man and gentlemanly; that is all we knew of him. I did not suppose he had the devil he certainly possessed in his heart.

But the officer kept returning to the romance he suspected.

Q. I should suppose from the papers and letters that Miss Surratt thought favorably of him?

A. If so she kept it to herself. She never corresponded with him.

Q. Did he pay particular attention to any one of the young ladies?

A. No particular attention. We were in the parlor together and he did not pay particular attention to anyone.

When Miss Surratt was interrogated she also showed considerable skill.⁴³

Q. How often did Booth come to your house?

A. Indeed I could not tell you.

Q. About how often?

A. I could not say sir—if I could I would. He came there right often

though. He never asked for anybody in particular. He usually saw the whole family. . . .

And a moment later, when Colonel Olcott tried again to entrap her, she snapped back at him:

"I have not seen any remarkably handsome man since I have been in Washington."

This answer checkmated the inquisitor; he refrained thereafter from any indelicate hints of a possible love affair between the young couple. That all suspicions of a clandestine correspondence between these two young people were groundless is indicated by sworn testimony which Miss Surratt offered two years later.

"I never saw in my life a letter written by J. Wilkes Booth," she declared.⁴⁴

The detectives strove hard to establish a state of intimacy between the acknowledged conspirators Paine and Atzerodt on one hand, and the two ladies of the Surratt family on the other. Anna stated without reservation that she had never liked Paine.

Q. What was there about him that you did not like?

A. I did not like his eyes. . . .

Q. But why did you dislike his eyes?

A. I don't know.⁴⁵

The young girl, whose intuition may have warned her that Paine was to bring ruin to her happy home, could not explain her aversion, although she was driven hard by the examining officer.

Q. Was there a wild look about them?

A. I do not know now. I think there was. I said he did not look like a preacher to me. He was not dressed like a preacher . . .

Q. Would you ever forget that eye or the look that he had?

A. No, sir. . . .

Mrs. Surratt was questioned about Atzerodt and expressed her opinion of him in terse sentences.

Q. Do you know a man by the name of Atzerodt, or Port Tobacco?

A. Yes, sir. He came to my house to board. I had several rooms. I came from Maryland and I had no way of living except by renting rooms and taking in a few boarders. I advertised in the "Star" several times . . . I was down in the country and when I returned I found him there. . . . I found in his room bottles of liquor, and when my son came home I told him that I did not want this man to board . . . That is all of my acquaintance with "Port Tobacco."

Q. How long was he there altogether?

A. Three or four or five days; not exceeding that, I am sure.⁴⁶

It was from such meager premises that the district attorney at the Surratt trial extracted this remarkable observation:

. . . John Wilkes Booth. Who was he? . . . the pet of Mary E. Surratt. Another one of the party, John Atzerodt, the "pet" of the ladies at No. 541, for they gave him the *sobriquet* of "Port Tobacco." ⁴⁷

On the day of her arrest an inquisitor attempted to make Mrs. Surratt disclose her political convictions.

Q. What are your political sentiments?

A. I don't pretend to express my feelings at all; I have often said that I thought the South acted too hastily; that is about the amount of my feelings, and I say so again.⁴⁸

Mrs. Surratt never lost her poise during these trying days. She was told that she was at liberty to decline answers to any questions, but that any of her statements might be used against her at the trial.

"You are a woman of too good sense," the officer added, "not to know that it is better to refuse to say anything than not to tell the truth."⁴⁹ To this admonition the widow did not deign

to reply. Whenever the questions tended to involve her son, she defended him stubbornly and courageously. Her assertion that John had gone to Canada was not taken seriously, because he had exchanged some gold pieces for greenbacks.

"If he expected to go to Canada," she was asked,⁵⁰ "why should he sell that money and get its value in greenbacks?"

"He might have wanted it for other uses . . .," she replied.

"No man on the round earth believes he went to Canada," the examiners scoffed.

"I believe it," Mrs. Surratt replied with dignity.

In the Surratt household was a young colored maid by the name of Susan Ann Mahoney who had been in service only about two weeks. On the day tragedy descended on her employer, she expressed anxiety that she might lose the wages due her. The old negro woman Eliza Hawkins from Surrattsville reassured her. Mrs. Surratt, she said, would pay her help if it took the last cent she had.⁵¹ Susan Ann was not satisfied, however, and when she was questioned at headquarters let her imagination run riot. Three men, she testified, had come to the boarding house during the hours following the assassination and had whispered, while she pretended sleep, that John Surratt had been at Ford's Theatre during the evening's performance. This statement, for which the young colored girl received a reward of \$250.00 from the government,⁵² was without foundation; the detectives, unaware of this, kept hammering Mrs. Surratt on this point. But the prisoner fought back and gave as good as she received.

Q. . . . Do you say to me that no two or three or four men ever came to your house the last three or four days—on Friday or Saturday or Sunday?

A. . . . I assure you on the honor of a lady that I would not tell you an untruth.

Q. I assure you, on the honor of a gentleman, I shall get this information from you.

A. Whatever it is, I shall tell you.

Q. Now, I know they were there.

A. Well, sir; if you do, I do not.

Shortly afterward a suggestion of third degree methods crept into the proceedings.

Q. Will you tell me, in the presence of Almighty God, who first mentioned the name of Mr. Booth in that party?

A. I don't remember. . . .

Q. Reflect a moment, and I will send for a glass of water for you. (Glass of water brought for witness)

Q. Now will you be kind enough to state who first made the remark in relation to Booth?

A. I don't remember . . .

Q. Now, what I want to ask of you is, whether you think your son was there [in the theatre] with Booth?

A. No sir; I do not believe he was there, if it was the last word I had to speak.

Even an investigator for the War Department had to admit in his official report that the prisoner's "manner throughout was cool and collected." ⁵³

If Mrs. Surratt had been permitted to take the witness stand in her own behalf, it is reasonable to believe that she could have successfully defended her good name and possibly even her life.

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While her mother's trial was still going on, Miss Surratt was allowed to move back into her home on H Street. Colonel Burnett, the assistant judge advocate, approached her one day in the court room and said if she came to Secretary Stanton's office she could get the key to the house. The young lady, who had all

her mother's pride, refused to be humiliated and obtained the key without having to beg for it. But the old home, once teeming with life, now harbored too many harrowing memories.

"After I got the house back, I did not know what to do with it," she declared pathetically.

On June 17 Anna Surratt wrote to the government for her belongings.

Col. Burnett [Assistant Judge Advocate]

Will please deliver to Mr. John Holahan, all papers & letters taken from Mrs. Surratt's house—his receipt for them will suffice.⁵⁴

Then the motherly Mrs. Holahan came to live with the distressed girl, and offered to do anything she could for her. Mr. Holahan probably helped her transact what little business there remained to be done. But it was not until fall that Miss Surratt finally left the place, never to return.⁵⁵

In later years the little building on H Street became a boarding house again, and as such it lasted until 1922. Then a dispatch from Washington advised the rest of the country that a "forlorn looking, dark gray house was placed on the auction block here . . . It was the home of Mrs. Surratt . . ." ⁵⁶

During the later prohibition period, the former dining room was occupied by a store which sold apparatus for home brewers.⁵⁷ In recent times the building has been used as a Chinese home. The lowest floor, where the Surratt family used to gather around the table, has been remodeled into a store, the outside staircase has been removed and the arrangements of the rooms have undergone some alterations. Nothing in the placid exterior indicates today that this house once was intimately connected with one of the greatest tragedies in American history.

☆ VI ☆

THREE days after Lincoln's assassination, Mrs. Surratt and the ladies of her boarding house were arrested. The arrest was the direct result of the false accusations made by the colored maid, Susan Ann Mahoney. Just as the officers were arranging for the transportation of their prisoners from the house on H Street, another incident occurred which was bound to increase the suspicion of the authorities. There was a knock at the door, and in walked Lewis Paine, the conspirator who had so fiendishly assaulted Secretary Seward and his household. He had spent three days wandering in the open and had finally been driven by hunger and exposure to the only place in Washington where he had ever received hospitality. His coming, unsolicited and unwelcome though it was, was hailed as further proof of Mrs. Surratt's guilt.

After a few days in the Old Capitol prison, Mrs. Surratt was put into solitary confinement. Locked in the hold of a gunboat, she spent day after day in darkness and desolation. Shortly before the trial began, she was taken to an isolated cell in the Arsenal prison, close to the courtroom in which she was to be sentenced.

Soon rumors began to spread that the woman prisoner was being maltreated. No one in authority or in a position to know either denied or confirmed these rumors, which for many years afterward formed the subject of a violent controversy.

VI

Was Mrs. Surratt Tortured?

FOR THE week following her arrest, while Mrs. Surratt was kept in the Old Capitol prison in charge of Colonel William P. Wood, an intimate record of her days has been preserved by one of her fellow prisoners.¹ The author of that reminiscence first became acquainted with a girl described as "Mary," presumably Miss Honora Fitzpatrick, one of Mrs. Surratt's roomers, who related how she had become associated with her boarding house lady and how she had been subsequently arrested with her.

"I had just come from school," the girl told the older prisoner, "and father, not keeping house himself, wished to place me in some nice quiet family. A friend recommended Mrs. Surratt; he accordingly sent me there. It was at night that we were all arrested . . . Anna Surratt was going to a little party, and had just begun to dress, and I was helping her, when we were sent for to come into the parlor, in which were Mrs. Surratt and several strange men, one of whom stepped up and said we were all arrested, and must go with them. Mrs. Surratt asked them to wait a few moments, and she knelt down and prayed, the men taking off their hats while she did so. She then arose, saying she was ready. They put us in an ambulance and drove to the provost marshal's, as you know. There, poor Anna liked to have gone wild; her mother said all she could to calm her, but she is so excitable and hysterical that no one could do anything

with her. She asked the officer how he *dared* accuse her mother of helping Booth?

"Just about day, they brought us here, and put us in the rooms upstairs. We were allowed to walk about, and were not locked in, even at night. We were there three days, at the end of which time I was released.

"I thought all my trouble was ended, but last Monday . . . I was at a Fair given for the benefit of St. ——— Church,² when a man came in and asked for me . . . He then took me aside, and told me I was wanted at the provost marshal's office, but only a few moments. I sent for Father W.³ . . . I had to go. . . . they began to ask me all sorts of questions, about things of which I had never even heard, and finding I did not answer as they wished, an officer asked me, 'if Mrs. Surratt had not made me take an oath not to tell anything?' . . . They brought me here, . . . and all night long I walked up and down . . ."

The narrator then described her impression of Mrs. Surratt.⁴

. . . a lady entered the room. She was apparently about forty years of age, a tall commanding figure, rather stout, with brown hair, blue eyes, thin nose, and small, well-shaped mouth, denoting great firmness. This lady was Mrs. Surratt.

She took her seat beside my weeping cousin, put her arm around her and drew her head on her shoulder; then she talked to her in the most consoling manner, and though my cousin had never seen her before . . . , she was tender and kind as if she had been an old friend. There was a calm, quiet dignity about the woman, which impressed me before I even knew who she was. She mingled very little with the other prisoners, unless they were sick or sorrowful; then, I may truly say, she was an angel of mercy. . . .

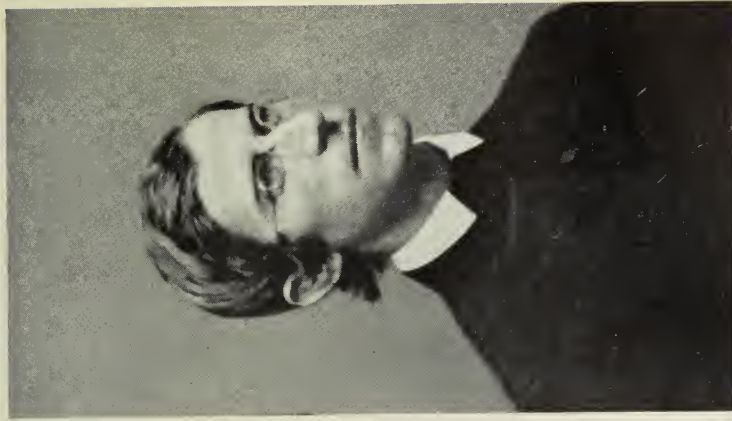
On one occasion, I remember, one of the papers contained an outrageous account of herself and household, aspersing both her character and reputation. . . . I watched her closely . . . and for an instant a flush of womanly indignation overspread her pale countenance . . .



MISS ANNA SURRETT
(*L. C. Handy Studios, Washington, D. C.*)



MRS. MARY E. SURRETT
(*From the author's collection.*)



FATHER JACOB A. WALTER
(*L. C. Handy Studios, Washington, D. C.*)

After she had read it all, she laid down the paper, and, clasping her hands, raised her eyes to Heaven and said, "I suppose I shall have to bear it."

That was the only time I ever knew her to make any allusion to her sufferings. . . . She . . . never uttered one word of reproach or virulence against those by whose authority she was imprisoned. She always retained her self-possession, and was never . . . thrown off her guard. H. [a detective] frequently spent hours talking with her, endeavoring . . . to entrap her . . . But in this—smart detective as he was—she foiled him. . . . Sometimes H. would say to her, . . . "Well, madam, we have at last captured your son . . . ; how did you ever hit on so snug a hiding place." But she was too wary to be misled . . .

One day, a woman . . . was brought in. She . . . was very talkative, generally selecting the assassination as her subject. . . . After a while the woman was taken very sick, and kind Mrs. Surratt, as usual, took charge of her . . . The woman recovered, and one day . . . she threw herself on her knees before Mrs. Surratt and said, "Oh, Mrs. Surratt, when they offered me the \$2500 . . . I did not know what to do. I was penniless, and—"

"Never mind now," said Mrs. Surratt, . . . raising her from her knees, "we will talk of something else."

Then came the day when Mrs. Surratt had to leave the comparative peacefulness of her new surroundings.

Night was closing around the Old Capitol prison, [the story continues] ⁵ and we . . . were collected together, talking, . . . when . . . [there] appeared . . . a soldier and said, "Mrs. Surratt, you are wanted. You will put on your bonnet and cloak, if you please, and follow me."

Mrs. Surratt arose silently, but trembling the while, and going to her own room arrayed herself . . . She returned in a few moments, her daughter clinging to her, and begging to be allowed to accompany her . . . Mrs. Surratt kissed each one of us, and when she

came to me, she threw her arms around my neck, and said in an agitated voice, "Pray for me, pray for me. . . ."

The soldier then took Mrs. Surratt by the arm, and she departed in the company of two officers.

For a while, all but Anna were silent, shocked by the suddenness of the whole proceeding. The poor girl knelt by her iron bedstead, wringing her hands and crying, "Oh mother, mother!"

None of us thought that Mrs. Surratt had been taken away to remain, and we sat up the entire night . . . As one would become tired, the other would take her place . . . Night after night did I hear the patter of Anna Surratt's little slippered feet, as she restlessly paced the room above me. I fancy I can see her now, her light hair brushed back from her fair face, her blue eyes turned towards heaven, her lips compressed as if in pain, and her delicate little white hands clasped tightly, as she walked up and down that room, hour after hour, seeming insensible to fatigue, and speaking to no one. Sometimes she would be quite hysterical, then again perfectly calm except for the constant walking. We all thought she would lose her mind if the strain were not relieved.

For days on days the fate of their companion remained unknown to the prisoners who had been left behind; then the detective returned with some news.

He told us that Mrs. Surratt had been taken on board of a gunboat, lying in front of the arsenal, in the hold of which she, and the other prisoners implicated in the assassination, were confined in perfect darkness and solitude. Around the neck of each prisoner was an iron collar, from which was suspended a short chain terminated by an iron ball, which rested on the floor, so that the head was bowed down and retained in that position; and in that position the prisoners sat day and night . . .

This is the first intimation that the woman prisoner was subjected to actual torture. Unfortunately, there is no way of measuring the unknown detective's veracity.

From the gunboat, Mrs. Surratt was finally transferred to the old Arsenal prison, and there she may be said to have come under the jurisdiction of L. C. Baker, Stanton's chief of the secret service. According to Wood, "terrible tortures [were] inflicted upon the unfortunate lady while she was in his [Baker's] custody . . ." ⁶ John T. Ford, the theatrical manager, also wrote to the New York *Tribune* ⁷ that he would prepare a statement giving a true story of Mrs. Surratt's tortures day after day, before and during her trial. But Wood did not make his charges definite, and his known antagonism toward Colonel Baker suggests caution in accepting his accusation. John T. Ford's promised statement has not been found.

There is reason to believe that at least one of these vague charges of torture referred to the manacles Mrs. Surratt was forced to wear during her imprisonment and trial. When the court proceedings began, the principal papers stated that she was ironed around the ankles, but not manacled otherwise. Ben Perley Poore, a journalist of high standing and friendly to the administration, noted that, "All of the prisoners, including Mrs. Surratt, wore anklets connected by short chains, which hamper their walk . . ." ⁸ The New York *Times* on May 15, 1865, wrote regarding Mrs. Surratt: "An iron bar ten inches long passes from one ankle to another and is attached to an iron band that encircles each leg." ⁹

The well-known woman writer and civil war nurse, Jane Swisshelm, drew a vivid picture of what she had observed in the court room where Mrs. Surratt's fate was being decided. ¹⁰

There was a railing the whole length of one end of the room, about three feet from the wall, in which was a door leading, they said, to the prison. The prisoners sat in a row, behind this railing, Mrs. Surratt being nearest to the door leading into the anteroom at that side, and quite near that leading to the prison. I was given a

chair in the aisle, just inside the door, and so near to Mrs. Surratt that I could easily have shaken hands with her over or through the railing. I sat there two hours, sometimes touching the railing, when the crowd passing at the door for entrance, induced me to move my chair, so that part of the time I was not more than one foot from her. She wore a heavy black dress, falling on the floor around her feet, so that I could not see them; but every time she moved them I heard chains clank. I had, before that, lived fifteen years on a farm on which was a saw mill, was familiar with the sound of chains, and the difference between that of a wagon and log chain. It could not have been made of anything but the heavy links of a chain, and that chain must have been fastened to both her ankles. The sounds could never have been made in any other way. The chains on her ankles must have been heavy enough to prevent her lifting her feet, for she only slid them on the floor, one at a time, for a little change of posture. She seemed to avoid moving, so as not to attract attention to the chain; for every time they clanked she blushed, painfully, blushed so that I could see it through the heavy crape veil she wore over her face. I sat until she was removed. She arose with difficulty, leaning on the arm of the officer who seemed to be kind. She did not lift her feet in moving to and through the door, but slid one at a time, a little way, I think not further than the heel of the forward foot came on a line with the toe of the other; but all the time the links ground and clanked. She could not move one foot an inch without making them grind. Mrs. Surratt sat before or rather on one side of her judges, chained with links of iron as heavy as those of a log chain; and while she sat there she was grossly insulted by spectators, men and women, or things that looked like men and women. Once she turned pale when one of these creatures said: "I hope they'll hang her! Just look at her! She looks like a devil!" I could not bear it, but spoke out and said: "She does not look like a devil! She looks like a good, kind-hearted woman, and you are a coward for insulting a prisoner." A man, in reply, said to me: "She's a Rebel," and I repeated, "Coward! Coward!"

Mrs. Surratt looked up and our eyes met. The expression of her

face will haunt me to the grave, and I thank God for the look of gratitude it wore; but, as we were getting up quite a side show, an officer forced his way to us, to see what the matter was. I told him that people were insulting the prisoner. He made them stand back, moved my chair to the other side of the aisle, and set a man at the door, to keep order and prevent my holding communication with the prisoner. Mrs. Surratt's chains were a common subject of conversation in Washington at the time. I wrote an account, at the time, which was published and extensively copied and commented upon, and this morning is the first time I have ever heard any denial of the fact that Mrs. Surratt was fettered as she sat wearily through the long hours and days of that trial.

Partisans of the government vigorously disputed these allegations. The New York *Times*, indefatigable champion of the War Department, even contradicted its own previous atrocity story, although it had been published only a few days before.

"In reply to a correspondent," it wrote on June 12, 1865, "we can only say that we discredit entirely the report that Mrs. Surratt is brought into Court handcuffed and manacled. The only possible reason for the use of these restraints would be the fear of rescue or escape, and in her case there is not the slightest possible apprehension of either. The government has shown no inclination to inflict needless and useless cruelties upon these or any other prisoners."

That the *Times* only "discredited" the report of the manacles is regrettable. An investigation of the facts would have been more convincing. Almost a decade had to pass before further interest in this question was aroused again, and by that time the truth had become obscured.

John T. Ford took up the threads of the old controversy in 1873 by accusing Judge Advocate General Joseph Holt, who had conducted the conspiracy trial, of having inflicted unnecessary pain and indignity on a helpless woman.¹¹ Holt replied

within a few days,¹² denying the use of manacles and eliciting a letter from the former marshal of the military court, General J. F. Hartranft, then governor of the state of Pennsylvania. Hartranft declared that,

"As marshal of the court before whom the conspirators were tried, I had charge of Mrs. Surratt before, during and after the time of her trial, in all a period of about two months; during which she never had a manacle or manacles on either hands or feet; and the thought of manacling her was not, to my knowledge, ever entertained by any one in authority. . . ."

Holt's former aide, Assistant Judge Advocate Burnett, also supported his chief. He knew from personal knowledge, he stated, "that Mrs. Surratt was not manacled, and that no such scene as Mrs. Swisshelm described ever took place in the courtroom. . . ." ¹³

Forney's *Washington Chronicle* joined the fight against Jane Swisshelm's accusation.¹⁴

. . . it would not ordinarily be necessary to notice the gushing egotism of this antiquated female [Jane Swisshelm was then fifty-eight years old], who has certainly, either intentionally, willfully, or ignorantly, made a statement that could not possibly be true . . .

After this outburst the *Chronicle* brought forth something more tangible—a letter from Frederick A. Aiken, junior counsel to Mrs. Surratt, and "certainly then, as well as now, her earnest advocate and friend . . ."

"I have to say . . .," Mr. Aiken wrote, "*that at no time during her unlawful trial was Mrs. Surratt manacled, either on her wrists or her ankles, while in the presence of the court. I not only speak from my own absolute knowledge, but from recollection of Mrs. Surratt's oft-repeated statements to me that she was not manacled.*"

The *Chronicle* then went still farther afield to find additional testimony, and on November 9 published the following:

A correspondent of the *Louisville Courier-Journal*, who interviewed General David Hunter on the question whether Mrs. Surratt was manacled during her trial, says:

"Since writing my last letter I have had the pleasure of conversing with General David Hunter, who was president of the military commission which tried the assassins of President Lincoln. In regard to Mrs. Surratt being manacled General Hunter, in reply to my question on this point, says: 'The morning after the trial opened a morning paper, in reporting the proceedings, said Mrs. Surratt was heavily ironed. I immediately addressed myself to the officer in charge to learn if the report was true, and he assured me it was false, and that she never had been manacled.' General Hunter says there could have been no object in the officer deceiving him, and, though he himself never personally investigated the matter, he is positively certain that there were no chains about her feet. . . ."

But apparently there is equally convincing testimony for the other side. Frederick Stone, defense counsel for Doctor Mudd and Herold, once had occasion to visit Mrs. Surratt in her cell. "She was ironed," he recalled, "but not heavily, like the others." ¹⁵

Edward V. Murphy, a court stenographer during the conspiracy trial, thought that Mrs. Surratt's treatment had been more severe than that. In an interview published in the *New York Times Magazine* for April 9, 1916, he recalled that, "for the first few days of the trial Mrs. Surratt was brought into the courtroom with an iron ball and chain fastened to her ankle and with her hands manacled. The manacles were removed later," Murphy concluded, "because of comments made by the press."

General Hartranft not only denied that Mrs. Surratt had been ironed, but surprised the reading public with the statement that

his woman prisoner had received special consideration while she was under his charge.

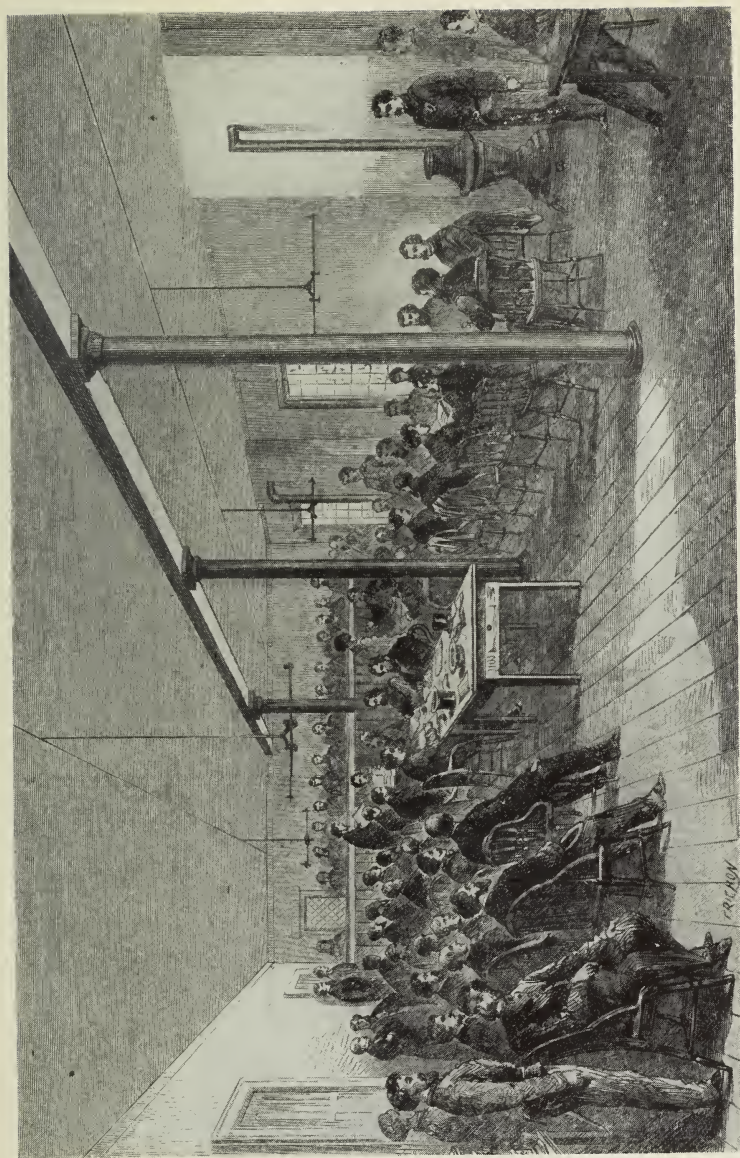
"During the pendency of the trial," he wrote in his letter to Holt,¹⁶ "I made application to the secretary of war for permission to remove her from the cell to a comfortably furnished room adjoining the courtroom, and for her daughter Annie to occupy the room with her, that she might attend to her wants. This request was granted. She was so removed; her daughter occupied the room with her, and Mrs. Surratt was fully provided for according to her needs and tastes."

Here is where the newspapers of 1865 had apparently missed out on a great story. With reporters hanging around the Arsenal day and night, and with any item on the woman defendant at a premium, they let the news escape them that Mrs. Surratt had been provided with what almost amounted to hotel facilities. And the government, accused of unnecessary brutality, did not trot out this proof of its benevolence for more than eight years, when there was no way left to check up on the extraordinary tale.

A few scenes from Mrs. Surratt's days of incarceration were pictured by Captain Christian Rath, who had charge of the old Arsenal prison.

"Mrs. Surratt was a woman of unusual nerve," he told a reporter.¹⁷ "She bore her imprisonment without complaint and was stoical. In the fore part of the trial, Mrs. Surratt's only daughter, Annie, was held in the prison as a witness. However, after the girl had given her testimony she was discharged. The parting scene was affecting; still, Mrs. Surratt did not act as though she thought they would not see each other again outside of prison walls.

"Some time after Annie had been released she appeared at the prison gate with an order from the Judge giving her permission



Scene at the Conspiracy Trial of 1865. Mrs. Surratt is shown in the left rear corner, the military commission at the right, reporters in the center, attorneys in front of the railing behind which the male defendants are seated.

(From a contemporary print in the author's collection.)

to visit her mother with an officer present. I was that officer. When the mother met her daughter she welcomed her warmly, but not as you would have expected. Mrs. Surratt was rather good-looking, well-dressed, and of attractive figure. The daughter was comely. The poor girl threw herself into her mother's arms, and, of course, burst into tears. They stayed in this position for fully ten minutes. Not a word was spoken. I could not witness such a scene longer, and I walked away. Mrs. Surratt and her daughter then talked over an hour and a half. When they had been in the courtyard nearly two hours Mrs. Surratt called to me and asked me to take Annie from the prison, saying that she was tired. The poor girl was almost worn out. The mother bore a determined look on her face. She had not shed a tear.

"I took Miss Surratt to her home and then returned to the arsenal. I told Major Eckert of the stoicism displayed by Mrs. Surratt. He informed me that her daughter had no sooner left the jail than her mother fell into a dead faint. . . ."

No mention is made by Rath of the "comfortably furnished" room which Mrs. Surratt's daughter was supposed to have occupied together with her mother.

The only three visitors who left records of their visits to Mrs. Surratt during or after the trial, likewise failed to notice the comfortable, not to say luxurious, quarters which Governor Hartranft's description suggests. Father Walter's impression when he called on her the morning of her execution was rather the opposite.¹⁸

"I can never forget the scene witnessed on that sad occasion," he wrote. "Poor Mrs. Surratt had been sick for several weeks and was quite feeble; she was lying on a mattress laid on the bare brick floor of her cell." Of course, the quarters in which Father Walter saw the condemned woman might have been her

death cell and not her regular prison residence. But the attorney, Frederick Stone, also could remember nothing of the comfort with which his would-be client was said to be surrounded. "Mrs. Surratt occupied one of the cells in the old penitentiary," he stated in 1883. "They were arched cells, hardly high enough for one to stand in upright, and with barred doors, and between each pair of cells stood a sentinel . . ." ¹⁹ And William E. Doster, another defense attorney, corroborated him by noting that "Mrs. Surratt was sick during a great part of this trial. . . . Her sickness was change of life . . . Her cell by reason of her sickness, was scarcely habitable." ²⁰

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It seems logical to conclude that Mrs. Surratt was chained at the beginning of her imprisonment and trial, although knowledge of this brutality may have been kept from the higher authorities. As the trial progressed and Mrs. Surratt's health kept failing, the manacles probably were removed. Generally speaking, the treatment accorded her was obviously severe and brutal; that specific physical tortures were practiced on her, however, is a contention unsupported by valid evidence.

☆ VII ☆

THERE may have been some doubt of how much brutality Mrs. Surratt was made to suffer during her incarceration; there was none in regard to the male suspects whom the government held for trial as conspirators against Lincoln's life.

Their heads were tightly covered with padded canvas hoods so that, aside from the physical torture inflicted, they could neither see nor hear; their hands were shackled in a way which made it impossible for them to write; and strict orders forbade them to receive visitors or communicate with their guards. It was a singular and unprecedented treatment and one which has long remained unexplained—

VII

The Silencing of Mrs. Surratt

WHEN THE Washington authorities put hoods over the heads of the men accused of conspiracy against Lincoln's life, they committed a strange act. When they added stiff shackles—manacles which made writing impossible—and forbade all intercourse with the outside world, there arose a misgiving that the purpose was not punishment, but the enforcement of silence.

On the strength of the foregoing alone, this idea was scarcely more than a suspicion. But when the government changed the prison of those not hanged from Albany to the inaccessible Dry Tortugas, and when the convicted men were confined there for years in solitary cells and kept from conversing with any outsiders, suspicion hardened into definite conjecture.

Yet, this chain of evidence had one weak link. Only the male prisoners were hooded and manacled; the female suspect, Mrs. Surratt, was not. What good was it to silence seven prisoners, if the remaining eighth was left in command of her tongue and pen? Moreover, those with whom Mrs. Surratt came in contact during her prison life also had to be taken into the reckoning—her daughter Anna who was allowed occasional visits, her three lawyers, Reverdy Johnson, John W. Clappitt and Frederick Aiken, and finally, two Catholic priests, the Fathers Wiget and Walter, who comforted her in her last hours. Unless the lips

of all these people could likewise be sealed, the systematic gagging of the seven male suspects appeared futile.

If Mrs. Surratt had possessed dangerous knowledge, prudence alone may well have kept her silent; for she hoped all through the trial to be saved from the gallows. In fact, no one in Washington expected that she would be hanged.¹

"About 5 o'clock in the afternoon of the 6th of July," one of her lawyers wrote,² "while sitting in our office awaiting the finding of the Commission, we were suddenly startled by the cry of the newsboys on the street, 'The execution of Mrs. Surratt!'

"We found to our dismay that, instead of an acquittal, or at most a temporary confinement of our client, the judgment of the Military Commission had been that of death . . . So sudden was the shock, so unexpected the result, . . . we hardly knew how to proceed."

If Mrs. Surratt had been intentionally misled into believing that her life would be spared, silence would have been a reasonable price to exact. The question is—had Mrs. Surratt been so misled?

Secretary of War Stanton had in his inner circle one man, Colonel William P. Wood, whose conscience led him to divulge important historical secrets in his later years. Among them was a discreditable incident in the famous McCormick-Manny reaper trial, which for many years had withheld from Cyrus McCormick the fame due him as a great inventor.³ Even prior to this *dénouement*, Wood had resolved to tell all he knew about the conspiracy trial, *the true story of which he said had never been given to the public*. In a series of articles in the *Washington Sunday Gazette* in the fall of 1883, Colonel Wood, speaking of Mrs. Surratt, wrote that,

. . . there were guarantees made to her brother by the writer, upon authority of Hon. Edwin M. Stanton, that she should not be executed . . .⁴

Sub 9th. Office U. S. Military Telegraph,
 Navy ~~WAR~~ DEPARTMENT,
 Washington, D. C. April 22^d 1865
 Comd'g J. B. Montgomery
 Comd'g Navy Yard
 Washington D. C.

The Secy. of War requests that
 the prisoners on board the iron
 clads belonging to his Dept shall
 have for better security against
 conversation, a canvas bag put
 over the head of each and tied
 around the neck with a hole
 for proper breathing and eating
 but not seeing and that they
 be secured to prevent self
 destruction.

G. V. Fox
 Asst. Secy

L 9 30th 409 32
 1865

The Secretary of War requests that the prisoners on board the *Montauk*
 be hooded. (Reproduced by courtesy of the Huntington Library, San
 Mareno, California.)

Wood intimated that these guarantees were given in exchange for information by Mrs. Surratt's brother regarding Booth's probable course of flight. The fact that the War Minister made such a promise gives food for thought. Very likely, he had at no time intended to live up to his promise. Whatever his early intentions were, however, Wood is concise in pointing out the betrayal:

. . . these conditions were violated, and . . . this deplorable execution of an innocent woman [followed].⁵

According to Colonel Wood, who had first-hand knowledge, it was true then that a promise of mercy had been made to Mrs. Surratt which would, of course, insure her silence. Another point now immediately arises as a necessary complement: if the widow had been tricked, her execution would have to follow the death verdict without delay, for the prisoner's natural impulse would be to avenge herself by talking freely. Hence the sentence would have to be carried out immediately.

The records show that the court announced its verdict on the morning of July 6. The order was not read to Mrs. Surratt until midday,⁶ and the hanging took place shortly after noon the next day. Such a short space of time between a sentence and its execution is practically unheard of.

"To act so hastily in a matter of this kind," was Father Walter's bewildered comment, "was certainly strange on the part of the Government."⁷

In vain did the spiritual advisers of the condemned woman fight for a reprieve of at least a few days, to give their charge an opportunity to prepare for eternity. They were met by the frivolous but significant reply that the prisoners had had time from the beginning of the trial to prepare for death.⁸

Heartbroken, Anna Surratt asked only for three days' grace, after commutation of her mother's death sentence appeared be-

yond human hope. But these three days were not granted. Manifestly, it was safer to brave criticism than to wait.

The Washington correspondent of the New York *Tribune* was probably in possession of accurate information when he advised his paper on July 6 that, "notwithstanding the request of Mrs. Surratt for additional time, it is not believed that her execution will be postponed."

However, there was still a whole day left before the hanging; much might be said by the woman prisoner in that time. But the very unexpectedness of the verdict eliminated this danger.

"The regular physician of the arsenal," the New York *Times* announced on July 7, "had just made his report of the condition of the prisoners. Mrs. Surratt was, and had been since the sentence was read to her, dangerously prostrated, and the physician had prescribed wine of valerian." This prostration was propitious; how long it would last no one could tell, but to take chances on its termination would have been foolhardy.

An almost palpable nervous tension pervaded the War Department on the day before the execution. Major A. E. H. Johnson, Stanton's devoted private secretary, related a scene he witnessed which illustrates the fanatical determination on the part of his chief to brook no interference in favor of Mrs. Surratt. A committee of residents who had been opposed to the war visited Stanton in her behalf.

"The Secretary," Johnson wrote, "noted an officer of the army wearing a surgeon's uniform, and this so aroused his anger that, looking at the surgeon he said: 'You had better take off those epaulets; they are not an honor to you on this occasion.' The spokesman of the committee stated that they had come on a mission of mercy . . ."

That the condemned woman, so suddenly confronted with the shock of her sentence, would be paralyzed, was to be expected. Nevertheless, the shock might wear off and make her

cast aside all restraint. The government had broken its bargain. She might summon her last strength and talk, if necessary, from the steps that led to the gallows. It was a contingency which had to be prevented at all hazards.

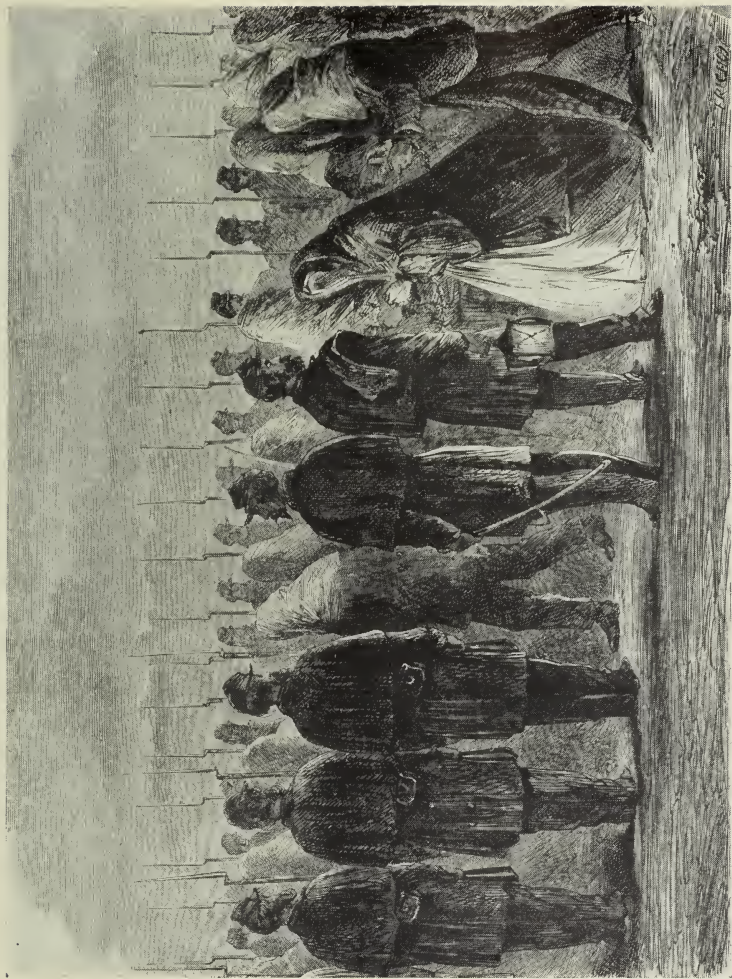
John T. Ford, the owner of the ill-fated theatre bearing his name, followed the conspiracy drama with intense interest as long as he lived. Gathering together what facts he could, he made the astounding statement in 1889, that, "The very man of God who shrived her soul for eternity was said to be constrained to promise that she should not communicate with the world. As the poor martyr walked in her shroud to the scaffold, it is also said that she begged the ministering priest by her side to let her tell the people 'she was innocent.' She was told that 'the church was permitted only to prepare her soul for eternity; that already she was dead to all else.'"¹⁰

One of Mrs. Surratt's lawyers, Mr. Clampitt, who had seen the priest, Father Walter, shortly before, gave out a statement which confirmed Mr. Ford's assertion.¹¹ "This woman on the scaffold," he said, "shrived for eternity, turned to her spiritual adviser and said:

" 'Holy Father, can I not tell these people before I die that I am innocent of the crime for which I have been condemned to death?' Father Walter replied: 'No, my child, the world and all that is in it has now receded forever; it would do no good, and it might disturb the serenity of your last moments.' "

According to Clampitt, Father Walter also stated that he had pledged "his faith and honor as a priest of God that after he had absolved her and she had received the sacrament he would prevent her from making any protestation of her innocence. . . ."

Father Walter himself strenuously denied this accusation. "I must positively deny that I prohibited Mrs. Surratt from asserting her innocence," he wrote.¹² He claimed that, shortly before the condemned woman was carried to the gallows, she was placed



Transporting the prisoners from the gunboat *Montauk* to the Arsenal prison. Note the hoods on the male prisoners and the handcuffs on Mrs. Surratt. The artist was probably incorrect in the number of hooded prisoners. Only seven male suspects were actually put on trial.

(From a contemporary print in the author's collection.)

on a chair at the doorway of her prison and there she said to the priest in the presence of several officers: "Father, I wish to say something." "Well, what is it, my child?" was the rejoinder. "That I am innocent," were the words with which she replied.

Whether or not Mrs. Surratt was permitted to utter this feeble protest in the presence of a few soldiers is of no great moment. Persons about to be executed have sworn to their innocence from time immemorial, and no one has paid much attention to their half-crazed pleadings. Certainly the government officials in Washington could hardly be concerned about such a trivial matter. What was vital was this: the condemned woman must not be permitted to harangue the crowd from the scaffold. There she might go beyond the mere question of her guilt, and every one of her words would be broadcast by news-hungry journalists. Curiously, Father Walter does not deny this. He had not prohibited Mrs. Surratt from asserting her innocence, he declared. He had allowed the prisoner's plea in front of her cell. But the young priest failed to refute the accusation that he had restrained his spiritual charge from speaking out later, when her message would have been heard around the world.

As things turned out, there was no necessity of enforcing silence on the condemned woman. "I doubt whether she knew much of her execution," wrote a spectator.¹³ "She behaved as one that was three-fourths dead."

Another weighty problem confronted the Bureau of Military Justice. Would Mrs. Surratt, during her incarceration, talk to religious advisers about more than mere spiritual matters, about things not connected with eternity, but with the conspiracy of which she was accused? Here was danger indeed. If the authorities were not afraid of anything she might reveal, they were either grossly negligent, or else they were innocent of deliberately muzzling the other conspirators for the sake of silence.

But if the officials were concerned, the safest course was to keep religious advisers away from the prisoner altogether, at least until the last day. If they had to be admitted then, a way to silence them afterward had to be found.

Father Wiget having died soon after the execution, Father Walter was the only man left to furnish testimony on this point, but whether he would ever speak out was doubtful. Fortunately, he had been nettled by Mr. Ford's accusation in 1889; and when an open letter in the *Century Magazine* of April, 1890,¹⁴ referred once more to this subject, he was roused to a reply. In a paper entitled "A True Statement of Facts Concerning the Surratt Case", read before the United States Catholic Historical Society, he gave a complete account of his connection with that *cause célèbre*. Father Walter's story is of absorbing interest.

"I was not acquainted with her [Mrs. Surratt]," he said, "and never spoke to her until the evening of [preceding] her execution. I received a letter from her dated Sunday, April 23, 1865, asking me to come and see her. She was then in Carroll Prison. I went on Tuesday morning, April 25th, but she had been removed to the penitentiary and I was told by those in authority at Carroll Prison that *no one would be allowed to see her.*"¹⁵ Thus, the government did adopt the safe course. No clergyman was permitted to see Mrs. Surratt before or during her trial.

The day before Mrs. Surratt's execution, Father Walter bethought himself of her former request to act as her spiritual adviser and obtained a passport, signed by General Hardie of the War Department. As he gave the usual receipt for it to the orderly, he remarked that a Catholic woman could hardly go to Communion on Holy Thursday (April 13, 1865) and be guilty of murder on Good Friday. When this remark was repeated to General Hardie, he became greatly excited. Hastening to the priest's house, he brought with him a pass signed by Secretary

Stanton, as he "was afraid that the pass . . . sent . . . would not answer . . ."

A pretty admission, this. Father Walter had been given a War Department pass which was worthless. At the last moment he would have been refused entrance to Mrs. Surratt's cell. But the young priest had shown fighting qualities and was not to be ignored. The oversight, if such it had been, was therefore quickly corrected.

The countersigned pass was not handed over immediately, though. This time General Hardie imposed a condition. "*I want you to promise me,*" he demanded, "*that you will not say anything about the innocence of Mrs. Surratt.*" These were the exact words as Father Walter remembered them. The priest bowed to force. "I cannot let Mrs. Surratt die without the sacraments," he said, "so if I must say yes, I say yes."

But Father Walter's word was not good enough in a matter of such importance. "Evidently some one at the War Department must have been alarmed," he mused, "for Major General Hancock [commander of the District of Columbia] was telegraphed to go and see Archbishop Spalding, so as to prevent me from asserting the innocence of Mrs. Surratt. *I received a telegram from the Archbishop's secretary, asking me to keep quiet,* and saying that the Archbishop would write me a letter by the evening mail. The letter came. It was no order, but simply a request that I should keep quiet in regard to the innocence of Mrs. Surratt. . . ." ¹⁶ To keep quiet—that was the point at issue. No one knew what other matters, aside from her protestations of innocence, the condemned woman had confided to her priest. Why else should someone at the War Department have become alarmed because a prisoner condemned to die had averred that she was not guilty and her father confessor believed her?

Whispers of these strange happenings penetrated some editorial offices.

"One of the prominent counsel engaged on the late conspiracy trial," reported the *New York Tribune* on July 12, 1865, "asserts positively that spiritual attendants were denied admission to Mrs. Surratt on the day of the execution until Secretary Stanton had received from them a promise that *they would not on the scaffold proclaim their belief in her innocence.*"¹⁷

On the previous day the *Tribune* had written this short paragraph:

When about to rise from her chair for the purpose of being pinioned, Mrs. Surratt enquired of her spiritual advisers what she should say on the scaffold, and upon being answered, "O, nothing—what do you desire to say?" replied, "That I am innocent."

There would have been no harm in that little speech, surely. But what if the condemned woman had suddenly cried out, "I have been deceived, and now I am willing to tell all"? The thorough precautions against the breaking of her silence point to fear of developments far more damning than stammering assertions of innocence in the shadow of the noose.

The *New York Tribune*, angered at being denounced by the Administration press for the publication of these news items, decided to delve further into the matter. Two of its reporters called on Father Walter on July 16, and he affirmed in later years that what they had published was a verbatim report of what had passed between General Hardie and himself.¹⁸ This raises the value of the *Tribune* story to that of an historical document.¹⁹

Washington, July 16, 1865.

On the publication of the statement in *The Tribune* a few days ago that the Secretary of War had interfered with the attendance of Mrs. Surratt's spiritual adviser, *The New York Times* and an ob-

scure Philadelphia journal ²⁰ took occasion without any knowledge of facts, to denounce it as a malicious fabrication. The subjoined statement was obtained from the very best authority, and neither *The Times* or the Secretary of War dare deny it.

On Thursday morning, the 6th instant, the Rev. Father Walter, pastor of St. Patrick's Church, in this city, went to the War Office to ask for a pass to visit Mrs. Surratt, ignorant of the fact that she had already been condemned to suffer death on the following day. He had never previously visited Mrs. S., nor did he know her except by reputation. On application, he was informed by Gen. Hardie, A.A.G. [Assistant Adjutant General] to Sec. Stanton, that he could not give him a pass without first consulting Mr. Stanton, who was out at the time. Father Walter returned home, and at 10 o'clock p.m. on the same day received a pass to visit the prison, signed, by order of the Secretary of War, Gen. Hardie, A.A.G.

The messenger who brought the pass to Father Walter, being an intelligent Irishman, Father W. entered into conversation with him on the subject of the execution, firmly asserting his belief in Mrs. Surratt's innocence. In half or perhaps an hour afterward, Gen. Hardie himself called at the residence of Father Walter, and after some irrelevant conversation, said: "Father Walter, you made quite an impression on the mind of my messenger in regard to the execution of Mrs. Surratt," to which Father W. remarked that he was firmly impressed with her entire innocence. Gen. Hardie then said: "Father Walter, the pass you have will not admit you to the military prison to-morrow, because it is not signed by the Secretary of War. I want you to make me a promise to say nothing of Mrs. Surratt's innocence, and I will give you the necessary pass."

Father Walter, naturally indignant, immediately refused to accede to Gen. H.'s demand, giving him to understand, in the plainest kind of language that no official, civil or military, could enforce silence on this point; and remarking that he knew under whose authority he (Gen. H.) was acting. Gen. Hardie—a converted Catholic, by the way—then said, patronizingly, that as yet there were no charges lodged against him, Father W., at the War Department, to which

the latter rejoined that he might tell his master, Stanton, that he conscientiously believed Mrs. Surratt guiltless; that he should proclaim his belief, and that the War Department might hang him if it thought proper.

General Hardie was about to go without giving Father W. the pass, when the latter said: "Gen. Hardie, I cannot suffer Mrs. Surratt to die without administering the sacrament; I say yes to your proposition; give me the pass." Gen. Hardie then drew from his pocket a pass duly filled up and signed by Edwin M. Stanton, admitting him, Father W., to the prison until after the execution.

Previous to the removal of Mrs. Surratt from the Carroll to the Military Prison, Father W. had made application to the War Office for a pass to visit her, she being very ill, but in every instance his applications were denied, and up to the very day before the execution Mrs. S. was deprived by the Secretary of War of spiritual attendants.

General Hardie's scarcely veiled threats, added to the remainder of the proceedings, make it difficult to believe that the scene for this drama was Washington and the year 1865.

Even Stanton's friend Wood, whose prisoner Mrs. Surratt had been a few weeks previously, expressed similar thoughts. "The story of the cruel execution of Mrs. Surratt," he wrote later, "is better fitted for the pages of the history of those eras regarded as the dark ages than the period in which the advocates of universal liberty were making the continent noisy with their howling."²¹

The priest's visit to Mrs. Surratt on her last agonizing day had been reduced to a few hours. His previous requests to give comfort to the sick woman prisoner had been brusquely denied. After attending her, his lips were closed by his solemn promise and, to make doubly sure, by an injunction from his superior.²² Such unusual orders were not likely to be issued without weighty reasons.

Altogether, it seems that Father Walter was as effectually gagged as if he, too, had been sent to solitary confinement on the Dry Tortugas.²³

The next person to attract the attention of the authorities was Miss Anna Surratt. This young lady had been in her mother's company while she was in prison; accounts differ as to how much time the two women were allowed together. Fragmentary reports make it appear that most of these precious hours were given over to weeping and praying. Nevertheless, it would not have been safe to overlook Anna Surratt, for she was a young woman of courage and spirit.

What, if anything, was done to keep Mrs. Surratt's daughter quiet is not known. Were the same vague threats brought to bear on her that had so aroused Father Walter's indignation? Anna had seen what the War Department could do. She had witnessed her mother's agonies; she had been in prison herself. There was danger to Mr. Jenkins, her mother's brother, and to his daughter Olivia, both of whom had spent some time behind bars. Furthermore, Anna's two brothers were possible victims of Stanton's vindictive anger—John in hiding, hunted as a conspirator, Isaac somewhere in Texas or Mexico.

Yet, it is doubtful whether threats of any kind were needed against Anna Surratt. Even if her mother knew some damaging secrets, the danger was small that she would share them with her daughter. In the first place, Mrs. Surratt, deluded to the last day that she was to go free, would not have broken her silence before then; and when she might have talked it was too late. Prostrated and feeble, she could not have talked coherently. Moreover, would she have confided in a mere child? Anna was a girl of seventeen; her examination by the officers of the War Department had revealed that Mrs. Surratt had not even discussed ordinary household affairs with her daughter. If Mrs. Surratt,

contrary to all evidence, had been of the conspirators, she probably would have died before letting her daughter know of it.

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There remained the three lawyers who had defended Mrs. Surratt—Reverdy Johnson, John W. Clappitt and Frederick Aiken. They all must have spoken to her during the trial and they could not be successfully hooded, hanged, or deported to a far-away island. Unless their silence could be assured, all other precautions were wasted.

Reverdy Johnson was an elderly senator from Maryland, a veteran of the bar, and considered one of the foremost legal talents of his day. He had been Attorney General of the United States in 1849. His name had appeared in the famous New Almaden Mine case. He had confronted Lincoln and Stanton in the contest over the McCormick reaper patents. He had defended General Fitz-John Porter before a court-martial and had then crossed swords with Joseph Holt who, as Judge Advocate General, now opposed him as head of the government prosecution against Mrs. Surratt. Reverdy Johnson was on a par with the best of them and stood, at least in prestige, head and shoulders above the other defense counsel. Johnson would dig down to the roots of the case, and no one would dare interfere. There was only one way to separate him from his client: to pry him loose from the case altogether and, if possible, to do so on the first day of his appearance in court. Up to that time not much harm could have been done, for the alleged conspirators had not been allowed to engage counsel until the trial was about to start. Johnson declared in court during the opening session that he had met Mrs. Surratt for the first time the day before.²⁴

The incredible happened. The proceedings had scarcely opened when General Hunter, the presiding officer, arose in all

his dignity and read an objection by one of the judges, General T. M. Harris, to the presence of Reverdy Johnson, on the grounds that the latter did not recognize the moral obligation of an oath. This referred to a controversy which had risen in 1864, when the State of Maryland had called a convention and Johnson had advised his constituents to take the prescribed oath, although he questioned the right of the convention to impose it. Mrs. Surratt's attorney, stung into fury by such an open insult, hit out at his assailants with full force. Asserting first that his advice "could not be tortured by any reasonable man into any such conclusion," he quickly changed from defense to counter-attack. Who gave the court jurisdiction to decide upon the moral character of the attorneys appearing before them? and what did his own moral standing have to do with the case on hand? Supposing he did not recognize the validity of an oath, what authority had the court to rule him out?

But, he continued, his oath was still considered valid before the Supreme Court of the United States. It would be singular if he could appear before the highest tribunal of the land and not before a court-martial. And as a last shot he reminded his hearers that he was a member of the United States Senate, the very body which created the laws that make judges, generals and courts-martial.

The court thereupon lifted its objection to Johnson's presence, although with ill grace. Johnson, however, in spite of having won his argument, at once withdrew from the case, unaccountably, indefensibly. He had no moral right to abandon his client, no matter how badly he had been treated. After establishing his rightful position in courageous and effective fashion, he suddenly collapsed. His action can neither be understood nor condoned on any known grounds.

That the challenge to Reverdy Johnson had its origin in General Harris's own mind is improbable. Harris was a West

Virginia physician and had been engaged in the field on October 7, 1864, the day on which Reverdy Johnson gave his opinion to the Maryland voters.²⁵ He would scarcely have taken an interest in constitutional problems of another state. Moreover, as a physician he would not likely be intrigued by finely drawn legal questions.

On the other hand, the Judge Advocates were bound to have kept themselves posted on this matter, being lawyers, professional politicians, and residents of Washington. The suspicion that they were behind this maneuver is strengthened by the declaration of General Hunter, president of the military commission, that if General Harris had not raised the objection he would have done so himself. Evidently, the War Department was determined to have Reverdy Johnson insulted by either one judge or another. All members of the commission were army officers and in the habit of obeying orders.

It has been said in Reverdy Johnson's defense that his altercation with the military court had damaged his usefulness to such an extent that he would have been more of a liability than an asset to his client. This argument is unsound. All the defense attorneys took a terrific tongue-lashing throughout the trial, but none left their posts; that they were more assets than liabilities is proved by the fact that four of the eight accused escaped the death penalty. But against the mere supposition that he had antagonized the military judges to the point of retaliation against his client, Reverdy Johnson should have realized that his desertion left Mrs. Surratt in the hands of two young men who were no match for the wily Holt, supported by the able Bingham and the seasoned Colonel Burnett. Clappitt was just twenty-four years old and had been admitted to the bar only the year before.²⁶ Aiken was even younger than his partner. The trial showed the one-sidedness of the legal battle. Cross-examinations were not conducted with the thoroughness they de-

manded; slips made by the prosecution went unnoticed, and finally, in the absence of Johnson's imposing presence, the attorneys for the accused began to squabble among themselves.

Mrs. Surratt herself felt that she was no longer properly defended after Johnson's defection. In the midst of the trial, she sent a message to Frederick Stone, who was representing Doctor Mudd and Herold, and begged him to take charge of her interests also. "It was from her own sense, plain as that," wrote Stone later,²⁷ "that Mrs. Surratt felt she was being sacrificed by the incapacity of her counsel. She then made the appeal for help, but the man to whom she made it had double work already . . . Mrs. Surratt," Mr. Stone added in recollection of these tragic days, ". . . had two men named Aiken and Clampitt, neither fit to defend a case of that importance. . . ."

"I think that Mrs. Surratt could have been saved with proper counsel . . ."

Another defense counsel, William E. Doster, going a step further, thought that Reverdy Johnson's withdrawal was a direct blow against Mrs. Surratt's chances.

"I cannot help believing," he wrote, "that Johnson's absence during the rest of the trial had a bad effect on his client's cause, on account of the conclusion drawn by many, that he had given up her case."²⁸

Mr. Stone was still more scathing in his comments on Johnson. "He came forward," he said, "and made an argument against the jurisdiction of the military court, to be read and applauded by the people, and then abandoned the woman."

The sympathies of the Maryland Senator for the prisoners ceased abruptly when the case was concluded. John T. Ford engaged Johnson's services for his former stage carpenter, Edward Spangler, who had been sentenced as a conspirator, after the Supreme Court in the Milligan decision of 1866 had declared trials of civilians before military commissions illegal. Mudd's

relatives did likewise in behalf of the imprisoned physican. But Johnson accomplished nothing for his clients on the Dry Tortugas; he probably tried his best legally, but beyond that he did nothing to ameliorate their deplorable condition. Yet, his political intimacy with the President got him almost anything he wanted otherwise. In March, 1867, for instance, after voting against the President's wishes, he calmly requested the appointment of his son-in-law as United States Attorney for Maryland.

"This," the President remarked, "was about as cool a piece of assurance as he had ever witnessed."²⁹ The usually fastidious Secretary of the Navy referred to Senator Johnson as an "old political prostitute . . ." All of which did not in the least hurt his further advancement. In the spring of 1868 the President appointed him minister to the court of England, an honor generally conceded to be the richest plum within the power of the Chief Executive, and ordinarily offered only to those deserving of exceptional gratitude.

The danger of having the accused conspirators talk to their attorneys was ever present, but not much opportunity for private intercourse was given them. Samuel Arnold in his recollections does not mention any consultation with his legal representative at all.³⁰ One of the defense lawyers avowed that "The prisoners . . . could only communicate [with their counsel] sitting in chains, with a soldier on each side, a great crowd surrounding them, and whisper through the bars of the dock . . ."³¹ Mr. Stone, another counsel for the defense, confirmed that *the military commission had established a rule that none of the accused could talk to their legal representatives in confidence*. The account he gave of his only interview with Mrs. Surratt shows that the government did spy on the privileged talks between the prisoners and their lawyers. "There was a soldier in the room," he recalled, "and General Hartranft, . . . seeing the

counsel come into the room shook his head at the guard, intimating for him to go out. Hartranft, without saying a word or nodding his head to the prisoner and counsel, then retired to the distant end of the room and looked out of the window, thus keeping the letter of the severe law but relaxing its spirit.”³² The letter of what severe law, one would like to know? Was there ever a law which forbade free and private speech between persons tried and their legal protectors? If Stone was grateful for General Hartranft’s gentlemanly behavior, he had completely forgotten that there were constitutional rights which would have made such personal favors unnecessary.

At any rate, the impression one gains is that under the precautions taken to prevent confidential speech between the accused and their lawyers, neither Reverdy Johnson, nor Clam-pitt, nor Aiken, could have obtained much information from the woman prisoner.

If Reverdy Johnson’s rising political influence after his withdrawal from the case has any significance at all,—and there is no proof that it had—the government must also have taken some steps to protect itself against subsequent disclosures on the part of his junior associates. But here all investigations came to a hopeless halt. There appeared to be no way of tracing the careers of these two young and inconspicuous Washington attorneys after the conclusion of the trial.

Then a lucky accident brought to light a Chicago newspaper³³ of March 23, 1897. In it there was an item with a tantalizing headline: “Proofs Go In Fire. . . . Colonel John W. Clam-pitt’s . . . Residence . . . Burned Down.” John W. Clam-pitt. Could it be that Mrs. Surratt’s lawyer had at last been found? A quick raid on old newspaper files revived a forlorn hope. It was really the former Washington attorney whose house had been destroyed in a Chicago suburb. Together with all his belongings,

the conflagration had consumed his library and a manuscript in which he had set out to prove the innocence of Mrs. Surratt. Yet, there was nothing in any of the reports to show that the government had made any efforts to muzzle him, and in his interviews Clampitt gave no hints that anything like it had been attempted.

There remained only a single clue. One of the reporters had remembered that Clampitt was the author of the well-known book, *Echoes of the Rocky Mountains*. From it was gleaned some interesting information. *Clampitt had been hired by the government in 1867 to go out West*. The safety of the overland mail service had been endangered by desperate marauders, and the marshals of the territory affected did not seem anxious to assist the Post Office Department. "And so it became necessary," wrote Clampitt,³⁴ "that someone should give his whole time . . . to this matter . . . I was gratified . . . when informed that I had been chosen . . ."

Then some misgivings came to the young attorney. "I must confess, however," he reported, "that ere my departure . . . my ardor was somewhat dampened when one day, upon visiting the postoffice department . . . I beheld a remnant of the bloody clothing of a special agent who had just been murdered by the Indians . . ."

It was August 13, 1867, when the government engaged its erstwhile opponent, and he left for Utah in September. The day of the appointment is intriguing.

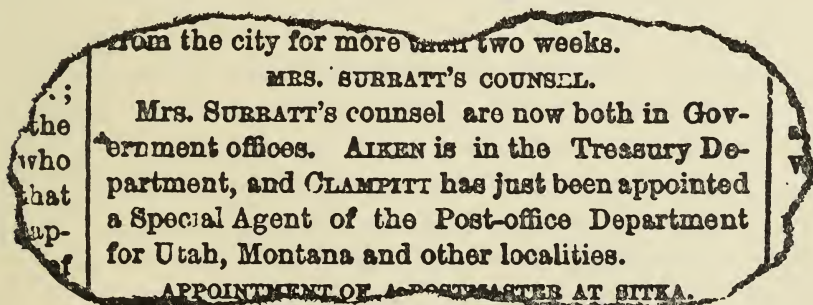
On August 10, 1867, the trial of John Surratt had come to a close. The whole Surratt affair was at everyone's tongue. Father Walter had been on the stand and had intimated that Mrs. Surratt had been judicially murdered. The unsavory conspiracy trial might easily have again become the topic of the day. But Clampitt could not have become the center of any controversy. By the time the verdict in the John Surratt case was being discussed by the public, Clampitt was on his way West; for three

years he stayed thousands of miles away from Washington and then settled in Chicago.

There remained now only Frederick Aiken, Clampitt's associate. If Clampitt had been removed from the opposition ranks by way of a government position, Aiken could not have been left out in the cold. If the government needed Clampitt's services, it also needed those of Aiken. An investigation of Washington payroll sheets furnished the answer. On May 23, 1867, *Aiken was appointed a clerk of the first class in the office of the Third Auditor of the Treasury. His appointment, so the records show, was recommended by Andrew Johnson, President of the United States; and a clerk in the Treasury Department Mr. Aiken remained until he resigned on April 1, 1869.*

Summarizing the evidence, what is there to show? Mrs. Surratt was promised clemency and was deluded at the last moment; her execution followed the sentence within one day; she was not allowed to proclaim her innocence in public; the attending priest was admonished to keep quiet; her lawyers were not allowed to converse with her in privacy; the leading attorney abandoned his client and later was rewarded politically; two junior lawyers who might have been indiscreet were given government positions.

Further historical research should determine whether these facts are more than just a series of bizarre coincidences.



An item in the *New York Times* of August 15, 1867.

☆ VIII ☆

BEHIND THE SCENES

OF THE

CONSPIRACY TRIAL

1. What Counsel for the Defense Remembered.
2. The Prosecution Presents Its Side.
3. Two Judges Review the Case.
4. As the Court Reporters Saw It.
5. Colonel Wood Speaks Out.

THE trial of those whom the government held guilty for Lincoln's death was held before a military court which had been appointed by Presidential order. Major General David Hunter presided, and there were eight other members, of whom General Lew Wallace and General T. M. Harris are best remembered.

The prosecution was in the hands of Judge Advocate General Joseph Holt, to whom had been assigned two assistants, Congressman John A. Bingham and Colonel H. L. Burnett. Eight defendants were on trial for their lives, Mrs. Surratt, Dr. Samuel A. Mudd, David E. Herold, George A. Atzerodt, Lewis Paine, Samuel Arnold, Michael O'Laughlin and Edward Spangler.

Mrs. Surratt was defended by Senator Reverdy Johnson of Maryland and two young Washington attorneys, John W. Clappitt and Frederick Aiken. Doctor Mudd was represented by Frederick Stone and Thomas Ewing, Jr.; Mr. Stone also took care of David E. Herold's defense, while Atzerodt and Paine had engaged a former provost marshal named William E. Doster. Counsel for Arnold and Spangler was General Ewing, and O'Laughlin was represented by Walter S. Cox.

Of the defendants, Mrs. Surratt aroused the greatest interest. The key witness against her was the former friend of her family and boarder at her house, Louis Wiechmann, and it was his testimony which told most heavily against her.

The trial lasted from May 12 to June 30, 1865, and ended in a verdict of guilty for all the accused. Mrs. Surratt, Paine, Herold and Atzerodt were condemned to death and were hanged on July 7. The remaining four were sentenced to prison, Spangler for six years, the others for life.

While the daily press printed fairly complete reports of the trial, much of what went on behind the scenes of the great drama was not told and probably will never be told. Yet, some actors and some spectators left behind them memories which permit fleeting glimpses into what lay hidden behind the performance—

VIII

Behind the Scenes of the Conspiracy Trial

1

What Counsel for the Defense Remembered

JOHN W. CLAMPITT, senior member of the firm of Clam-pitt and Aiken, of Washington, D. C., and one of the attorneys for Mrs. Surratt, remained convinced to the end of his life that his client had been murdered by judicial decree. Fifteen years after the trial he gave public utterance to this thought. In his opinion none of the so-called conspirators had been given a fair chance for his life.

"The state of the public mind was such," he stated, "that the desire for revenge had taken the place of justice, and, for a time, a reign of terror prevailed. In the words of the New York *Herald*, 'a thirst for vengeance seemed to have taken possession of every soul. It was felt that some one ought to be hanged, and there was a disposition to begin upon the first available person.' " ¹

Mr. Clampitt told how Judge Wylie had issued a writ of *habeas corpus* in behalf of the condemned woman, how it had been defied by General Hancock, who was backed by President Johnson, and how the Chief Executive had refused to see anyone in Mrs. Surratt's behalf. Together with Miss Surratt, the

young lawyer then had implored Judge Holt to intervene, if not for mercy, then at least for a three day respite. “. . . the Judge Advocate General agreed to meet us at the Executive Mansion at a given hour. We reached there at the appointed time. He had gone before us, and was just emerging as we came.

“He said: ‘I can do nothing. The President is immovable. He has carefully examined the findings of the Commission, and has no reason to change the date of execution, and you might as well attempt to overthrow this building as to alter his decision.’”²

In 1883 a reporter for the *New York Tribune* journeyed through the southern counties of Maryland. His enterprise brought to light the reminiscences of another defense lawyer who had battled in the conspiracy trial.³

“Among the persons I visited,” he wrote, “was Judge Frederick Stone who belongs to one of the most honored families in the state. . . . The present judge . . . was a Southern sympathizer in the war, but he lived to regret the Rebellion as a work of folly, and to throw his efforts into the line of progress and liberality. Mr. Frederick Stone was the counsel for Dr. Samuel Mudd as well as for David G. Herold . . .

“Said my informant above: ‘Revueing the trial of the conspirators against President Lincoln’s life, I have to say that, considering it was a military court, it was a fair court and one of ability. Judge Holt, the Advocate General, was a very able man. The Court was courteous toward the defense. . . . It was manifest to me from the start that this court meant to find guilty any person connected with the murder or the intended murders, but they only meant to imprison or to give lighter punishments to accessories and those playing the spy or in the abduction plot. . . . The court very nearly hanged Dr. Mudd. His prevarications were painful; he had given his whole case away by not trusting even his counsel or neighbors or kinfolks. It was a terrible thing



JOHN W. CLAPPITT

(Courtesy of Belford, Clarke & Co.,
Chicago.)



WILLIAM E. DOSTER in 1863

(Courtesy of Mr. Wadsworth Doster,
Pittsburgh, Pa.)



REVERDY JOHNSON

(L. C. Handy Studios, Washington, D. C.)

THREE OF THE COUNSEL FOR THE DEFENSE IN THE CONSPIRACY TRIAL

to extricate him from the toils he had woven about himself. He had denied knowing Booth when he knew him well. He was undoubtedly accessory to the abduction plot, though he may have supposed it would never come to anything. He denied knowing Booth when he came to his house when that was preposterous. He had been even intimate with Booth. The proclamation of the Government was straightforward, that death should be the penalty of any man who could give information about the convicts and would not do it. Yet Dr. Mudd was saved, and it is understood that the vote stood five to four. One more vote would have hanged him, as two-thirds of a court-martial is necessary to allot the death penalty.' ”

In reading this statement one would hardly suspect that it came from the mouth of one who once had sat with counsel for the defense. The bitterest opponent of Doctor Mudd could not have shown stronger prejudice. “Dr. Mudd was a well-balanced man,” Stone added gratuitously, “of very slight force of character, but little moral courage, a petulant temper, and it is hard to denote his ability anywhere. . . .”

If Mr. Stone had kept himself posted on current history he would have known that Doctor Mudd, a delicate man of great nervous sensibility, had borne his tortures on the Dry Tortugas with a courage that was extraordinary; and in what position was Stone, a lawyer, to pronounce judgment on Mudd's ability as a physician? When the exiled practitioner had taken charge of the fever-infected island, he had instituted measures which had shown not only medical but also executive ability of a high degree.

All this was a matter of record when Stone, who may have been influenced by political considerations, granted his interview to the *New York Tribune*. His judgment, based largely on surmise, divulges a lamentable lack of generosity.⁴

One attorney who undertook to defend two real conspirators was William E. Doster. A major in the Fourth Pennsylvania Cavalry in 1862, he had been assigned to the duty of provost marshal of the city of Washington⁵ and as such had shown considerable pluck and independence of spirit. At one time he had come into violent collision with the notorious detective Colonel L. C. Baker who had preferred several charges against Doster, one of which was connivance in smuggling liquor to the army. Doster was able to prove that the liquor pass on which this charge rested was a forgery. The result was that the War Department gave him orders to arrest Baker and some of his underlings. A few of the latter were apprehended, but Baker escaped by avoiding his usual haunts. "Baker himself could not be found," Doster reported, "but . . . [he] ever afterwards left me in peace."⁶

On May 12, 1865, after the conspiracy trial had opened, Doster was drawn into it as counsel for Paine, the man who had assaulted Secretary Seward and the members of his household. Doster was already representing George Atzerodt, the German boatman, and was asked by Assistant Judge Advocate Burnett to take Paine's case too, "as he had about as much of a chance to get off, as the other, that is—none at all."⁷

As proof that the court itself could be equally callous, Doster cited this instance:

After the argument in behalf of Payne was submitted, the court adjourned for lunch. During lunch one of the members of the commission remarked, "Well, Payne seems to want to be hung, so I guess we might as well hang him."

Doster remembered other handicaps under which the defense had been forced to labor.⁸ "The prosecution had had a month, assisted by the whole war power of the Government . . . to get its evidence into shape. The prisoners did not receive their

charges until the day the trial opened . . . Had counsel been closeted with the prisoners for weeks [instead of having to communicate with them in open court and on the spur of the moment], with the charges in their hands and the war power of the Government at their disposal, the odds might have been more even.

"Counsel were . . . only tolerated. . . . they were surrounded by bayonets and seated in a penitentiary. Every paper they read abused them. The judges could not be challenged. . . . The names of witnesses were not given the prisoners. Tendencies, not facts, were admitted. The court, not knowing anything about the rules of evidence, ruled out practically everything the judge advocates objected to and admitted everything the counsel objected to."

Doster claimed that many of the witnesses were detectives in government pay. The judges themselves were under direct jurisdiction of the Executive. The alleged crimes of the defendants were not defined by any known rules of law but were vaguely termed offenses against the "common law of war".

"Under these distressing circumstances," remarked Doster, "there was nothing to do except what lawyers have often tried before, but which no one to my knowledge has done successfully during the war—plead to the jurisdiction [of the court]."

Reverdy Johnson wrote out the argument. It was immediately rejected by the commission. "From what members of the court have since told me," Doster said, "it had no effect on them whatever. They had Stanton's orders, and that was enough for them . . ."⁹ To appeal to soldiers with a legal document had been about as sensible, Doster thought, as asking the Supreme Court to decide on a question of strategy.

Assistant Judge Advocate Bingham's answer to Johnson's argument on the legality of the tribunal was calculated to find a ready response from the military judges.

The members of this Court are officers in the army of the United States, and, by order of the President, as Commander-in-Chief, are required to discharge this duty . . . But this Court has no power, as a Court, to declare the authority by which it was constituted null and void . . . is it possible . . . that any body of men, constituted . . . as a tribunal . . . can sit in judgment upon the proposition that they are not a court . . . ? Why not crown the absurdity . . . by asking the . . . members . . . to determine that they are not men . . . !¹⁰

No wonder the officers followed this line of reasoning. Had they been swayed by the plea of the defense and dissolved the tribunal as unconstitutional, they would probably have been summarily dismissed from the service and might themselves have become victims of a court-martial. To entertain an appeal to the jurisdiction of the court as "the only hope", as Johnson had expressed it, was farcical.

According to Doster, he acquiesced in Reverdy Johnson's plea, not for what it would accomplish with the military commission, but for the effect it might have on public opinion; ". . . it was meant for the President and the people," was his explanation.¹¹

Although more than half expected, the overruling of Johnson's argument resulted in great discouragement among counsel for defense. "This was practically the end of my case," Doster admitted, "as far as any show of legal defense was concerned. The rest was firing pistol shots against siege guns—two men in irons against a dozen major-generals, with a swarm of detectives within the penitentiary and a division of infantry outside."

The defense of Paine, who had made up his mind to die and who considered the trial a waste of time, was made still more difficult by the young giant's refusal to coöperate with his lawyer. "During the first two weeks of the trial," Doster reported, "I could get nothing out of Payne either as to his previous his-

tory, or as to anything he might have to say in his own defense, or as to whether he wished to be defended at all. During all this time I knew very little more of him than the public generally, and not near as much as the prosecution, and was in great doubt whether to explain his conduct by lunacy, unparalleled stupidity, or fear of prejudicing his cause by communications with his counsel. . . .”¹²

Later Paine told his lawyer that he had changed his name from Powell to Paine, not from fear of the Federal authorities, but because he had been a member of Mosby’s rangers and had deserted. The plan to enter Seward’s house under the pretext of bringing medicine had originated with Herold, who had been a drug clerk at various times. The most interesting of the prisoner’s revelations was this: *Booth had not told even Paine what his plans were until 8 o’clock on the evening of the assassination.*

Doster received a letter from Paine’s father after the trial in which the latter made the astounding statement that at the age of twelve his son had chosen religion as his profession and had lived a pious life up to the time of his enlistment.¹³

Speaking as a lawyer, Doster summed up the case for Paine by saying: “the fact remains that the prisoner was never connected directly with a conspiracy to kill Mr. Lincoln and legally could be found guilty only of an assault and battery on Mr. Seward, with intent to kill—a penitentiary offense.”¹⁴

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Doster was pessimistic about his second client, George A. Atzerodt. “There was nothing about this prisoner’s appearance,” he admitted, “to win favor with a court of military men. He looked demoralized and low.”¹⁵

The defense of Atzerodt was not made easier by the conduct of his family. One of his brothers and a brother-in-law were on

the staff of Provost Marshal McPhail of Baltimore. "The whole family," Doster remarked, ". . . were much troubled, between the desire to prevent being complicated with the guilt of George, and the desire to help him out of his scrape. They all appeared to be constitutionally of a vacillating and irresolute frame of mind. The effect of this situation and temper of his relatives made his defense more difficult still. I scarcely knew whether they wanted him acquitted or convicted."¹⁶

Atzerodt told his counsel the same story which he had confessed to Marshal McPhail of Baltimore and to Captain Munroe of the *Montauk*. He maintained that Booth had confided the assassination plot to his associates only two hours before the time set for it. Atzerodt would have had ample opportunity to kill Vice President Johnson had he chosen to do so. That he did not carry out his part was the prisoner's main defense, and he could not understand why this should not secure his release. Besides, he placed great reliance on the efforts of his family to see him saved; but when Doster appeared in front of the White House on the day of execution to seek mercy for his client, he saw none of Atzerodt's relatives there.

A noteworthy fact which Doster discloses, but which does not appear in the official record of the trial, is that he subpoenaed President Johnson as a witness for Atzerodt's defense.¹⁷ He intended to prove that the President had been at home all evening, that his hotel-room door had been open, and that therefore his assassination would not have been a difficult task. Johnson did not appear, and another subpoena was issued. Thereupon the President sent word that he did not intend to obey the summons, but suggested that ex-Governor Farwell¹⁸ of Wisconsin be examined instead. Farwell had hastened to the Vice President's room immediately after the assassination. The former governor was duly put on the witness stand, but testified *that he thought the door was locked* and that he had to rap repeatedly

to gain admittance, thus testifying *de facto* against the prisoner, although called as a defense witness.

Counsel had not pressed the President too hard, for he could not afford to irritate the man who could pardon his client. Yet, Johnson did not pardon Atzerodt, while the testimony given by Farwell added to the odds against the accused.

Doster also revealed that he had subpoenaed two other interesting characters--Booth's mistress, Ella Turner, "a rather pretty, light-haired, little woman,"¹⁹ and the actor's brother Edwin. The testimony these witnesses were expected to furnish was that Booth had always exercised an unusual influence over weaker minds. Edwin Booth came to Washington, but said he probably knew less of his brother than anyone, not having had much to do with him for years. Miss Turner was dismissed without being put on the stand. The defense wisely concluded that she would not be of any particular help, but might do harm instead.

Atzerodt did not meet his eventual fate as manfully as Paine who, on his way to his death, would "stop occasionally and as he did so would look around on the spectators with a calm but haughty expression."²⁰ Atzerodt, on the other hand, "during the period that elapsed between his sentence and execution, . . . oscillated between a condition of moaning stupor, kneeling, and crying, 'Oh! Oh! Oh!' and again begging in piteous accents to know whether there was no hope at all. It was heart-rending to see."²¹

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Mr. Doster added a few remarks on Herold, although the young drug clerk was not his client. He described him as the most reckless and boyish of the party who "seemed considerably pleased by the attention he attracted. He was frequently calling one or the other of the counsel to him to make suggestions that

were puerile. When the defense of Mrs. Surratt appeared to be making out a tolerable case in her behalf . . . he appeared jealous . . . and said: 'That old lady is as deep in as any of us.' This, however, was stoutly denied by Payne and Atzerodt, who constantly and repeatedly stated that Mrs. Surratt was entirely innocent . . ." ²²

The young attorney also reported an incident which none of the contemporary papers printed. "After the execution I hurried out of the arsenal in front of which a big crowd was standing and shouting, 'Judicial murder!'" ²³ Public sentiment evidently was not so one-sided as it has been generally pictured.

Doster expressed respect for his opponents Judge Holt and Colonel Burnett, whose conduct he considered courteous and moderate throughout; but for Bingham, Paine's counsel showed scant admiration. Among his confrères, he alluded to General Ewing, who subsequently settled in New York, acquiring eminence in his profession, and to Mr. Cox, who later became judge of the Supreme Court of the District of Columbia and, by a curious irony of fate, was called upon to try Guiteau for the assassination of President Garfield.

Finally, Doster indulged in a speculation as to what would have been the probable fate of the defendants in the conspiracy trial had they been tried in a civil court.

"Payne would either have been acquitted, on the ground of insanity," he concluded, "or, if convicted, would have been sentenced to a long term in the penitentiary. Atzerodt would probably have been convicted, but would have received a light sentence. Herold would have been convicted and sent to the penitentiary for a long term. Arnold, Spangler, and Mudd would have been acquitted. Mrs. Surratt would have been confronted again with the testimony of her tenant Lloyd and her boarder Weichmann, who turned State's evidence to save their necks, and the court would have been obliged to charge that

they could believe these witnesses only as accomplices if they were corroborated.

"With the previous good character of defendant, the jury would probably have regarded Mrs. Surratt's declarations as those of an embittered Southern woman, and nothing more, and acquitted her." ²⁴

2

The Prosecution Presents Its Side

Of the three prosecutors in the conspiracy trial only one, Colonel Henry L. Burnett, has left reminiscences concerning that event. His superior, Judge Advocate General Joseph Holt, merely defended himself against the accusation of having withheld from President Johnson the court's recommendation to spare Mrs. Surratt's life. Only once did Holt depart from his policy of silence, and that was when he entertained the well-known writer George Alfred Townsend at his Washington home. Townsend, then writing under the *nom de plume* of Gath, published their conversation in the form of an interview, and the *Washington Republican* reprinted it in condensed form on December 17, 1883, under the heading "About Mrs. Surratt."

"I think," Judge Holt was quoted as saying, "that she was the master spirit among them all. She was a woman of unusual nerve, and also of unusual intelligence. During that trial her behavior was firm . . . I believe that she kept those men up to their work—that Booth himself was inferior to her in purpose. . . . Mrs. Surratt . . . gave shelter to the others, she went out and found board for them, she drove the carriage out to her tavern where the arms and accessories had been hidden within a few hours of the crime. I consider her the center of the conspiracy. . . .

"There was a young man by the name of Weichmann in that

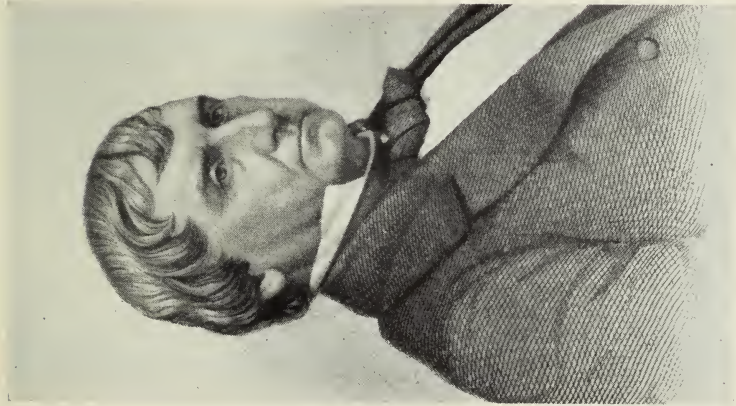
trial . . . who had known her long. In addition to the evidence which he gave at the trial, he told some very singular things. Booth came to Mrs. Surratt's house the day of the assassination . . . I have never doubted that Booth imparted to Mrs. Surratt at that time the information that he meant to kill Mr. Lincoln . . . that night."

This article caused Holt to address Townsend in angry words.

"I clipped the enclosed from the Republican of this morning," he wrote, "and read it with surprise. Had you given me the slightest reason to believe, or suspect even, that you intended to make public the conversation which I was led to hold with you a few days ago at my own fireside, I would not have opened my lips to you on any subject—least of all in relation to Mrs. Surratt, on whose account I have suffered so much malignant defamation from the licentious press of the country—you have treated me badly, & such journalism, I consider utterly unfair . . ." ¹

It is surprising that Townsend's article should have so aroused Holt's wrath. The former judge advocate may never have used the actual words quoted by the New York writer, but they certainly portray with fair accuracy his official attitude at the conspiracy trial. In fact, had he then entertained different ideas, he could not logically have led the prosecution. No doubt, Holt felt aggrieved that he had been indiscreet enough to emphasize the alleged intimacy between the assassin and Mrs. Surratt. Holt's allegation "that Booth imparted to Mrs. Surratt at that time the information that he meant to kill Mr. Lincoln . . . that night" was mere assumption on his part; to mention the incident at all showed what importance the officials had attached to it. ²

So far as is known, Holt entered no denials to the factual statements attributed to him by Townsend.



JOSEPH HOLT

(From the author's collection.)



COLONEL HENRY L. BURNETT

(L. C. Handy Studios, Washington, D. C.)



JOHN A. BINGHAM

(L. C. Handy Studios, Washington, D. C.)

ATTORNEYS FOR THE GOVERNMENT IN THE CONSPIRACY TRIAL

Holt's other assistant, John A. Bingham, wrote some letters in support of his former colleague and collaborated with General T. M. Harris in his *Assassination of Lincoln*. Possibly, he even wrote the chapter referring to Father Walter; but no other comments of his have come to light.

The only one of the three prosecutors who was willing to face public audiences with his recollections was Colonel Burnett. Previous to the conspiracy trial he had been engaged in other important cases for the government. In September, 1864, he had acted as judge advocate against the Knights of the Golden Circle and similar organizations, and immediately afterward he had entered upon the trial of the Chicago conspirators, among whom the unfortunate English Colonel, St. Leger Grenfel, was the most prominent.³ While making his closing argument in this case on April 17, 1865, Burnett received a dispatch from the Secretary of War, directing him to report immediately to Washington to aid in the examination, and later in the prosecution, of those suspected of Lincoln's assassination.

Colonel Burnett, in a paper read before the Ohio Society of New York on April 18, 1892, complained bitterly about the treatment meted out to him and his associates in 1865 by a hostile public. "For this trial," he said, "and especially for the trial and execution of Mrs. Surratt, that portion of the press and the persons in sympathy with the late rebellion indulged in most bitter denunciations of the court; the judge advocates; General Hartmanft, who was in immediate command of the detail having the prisoners in charge, and who carried into execution the sentence of the court; and of General Hancock, who was in command of the military forces in and around Washington. No falsehood was too extravagant to be imagined, stated and believed."⁴

On one occasion Burnett was passing along a Cincinnati street when a lady bowed and greeted him with a smile. A gentleman standing nearby turned to her and said, "Do you know who

that is you have just bowed to?" "Oh yes, very well," she replied. "Well," was the reproachful rejoinder, "do you know that he hung Mrs. Surratt with his own hand, and smiled as he came down from the scaffold?"⁵ Colonel Burnett had left Washington two days before the execution and felt deeply hurt at this accusation.

The former assistant judge advocate emphasized that "the whole power of the government was put at the service of the accused and used unreservedly by their counsel to bring from any part of the United States any witnesses they might desire." He noticed during the trial that one or two of the hastily gathered lawyers for the accused apparently did not have their hearts in the cases they were handling. "Some of the counsel . . .," he remarked, "seemed to be as much convinced as the court of the guilty participation of the rebel authorities at Richmond . . ."⁶

Colonel Burnett related how thoroughly the whole country had been stirred up by the Surratt case. Not only the defense attorneys, government prosecutors and military judges, but even General Hancock, in command of the military forces of Washington at the time of the trial, became the object of public censure. In 1871, when the general's name was mentioned as a Presidential possibility, fierce attacks were loosed on him.

"He did his duty like a stolid serving-man through the war," a leading St. Louis paper wrote; ". . . he distinguished himself equally as a federal zealot. It was General Hancock . . . who declined to interfere with the order of the court-martial sentencing Mrs. Surratt to death. It was he who became himself party to one of the most inhuman crimes ever perpetrated in the name of justice."⁷

This analysis of Hancock's conduct is eminently unfair. Nevertheless, his connection with the hanging of a woman continued to haunt him in future years. When nominated for the

Presidency by the Democratic party in 1880, the old charges were still hurled at him.

Judge Advocate General Holt tried for the rest of his life to escape the responsibility attached to his part in the affair. In 1873 he referred to the efforts which had been made to stay the proceedings by a *habeas corpus*, “. . . the object of which was, and the effect of which would have been, had it been obeyed, to delay the execution of Mrs. Surratt at least until the questions of law raised had been decided by the civil courts of the District; yet this writ was, by the express order of the President, rendered inoperative. . . .”⁸

It is evident that in 1873 the shrewd prosecutor of Mrs. Surratt felt uncomfortable. Instead of explaining his own conduct, he preferred an attack on ex-President Johnson as his best defense.

After the Presidential campaign of 1880, the memory of the conspiracy trial died down for a few years. By 1888, however, its spectre rose again. Holt, by that time a lonely old man, was still fighting against the imputation that he had willfully suppressed a recommendation for mercy in Mrs. Surratt's case, and in 1889 he was successful in enlisting the support of Colonel Burnett who defended his erstwhile colleague before the Loyal Legion.⁹

In 1894, Joseph Holt died, and at last the excitement caused by the execution of Mrs. Surratt began to subside. But in 1895, the historian David DeWitt revived it once more with his impassioned plea, *The Judicial Murder of Mary E. Surratt*.

The execution of Mary E. Surratt is the foulest blot on the history of the United States of America. . . .

It was unconstitutional. It was illegal. It was unjust. It was inhumane. It was unholy. It was pusillanimous. It was mean. And

it was each and all of these in the highest or lowest degree. It resembles the acts of savages, and not the deeds of civilized men.¹⁰

By that time there were none left who could or would answer this outburst. Thirty years had passed since the execution. Most of the important actors in that drama of a former generation were dead; the remainder were either in sympathy with Mrs. Surratt's champion, or else too old and indifferent to rekindle the dying embers of an event which had brought but little glory to anyone.

3

Two Judges Review the Case

Twenty-seven years after the conspiracy trial, General T. M. Harris, one of the military judges, wrote a book on the case in which he had taken so important a part.¹

"Owing to a variety of causes," he stated in his preface,² "the facts connected with this most important event in our nation's history have been slurred over and obscured. Scarcely one in a thousand of our people to-day have any knowledge of their existence."

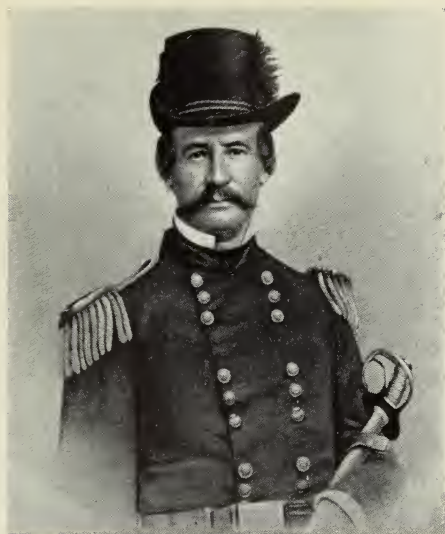
There were specific reasons which prompted Harris to write his book when he did. Efforts had been made spasmodically, he stated, to prejudice public sentiment against the government by intimating that Mrs. Surratt, one of the parties executed, had been a victim of judicial murder.

"It appears that the time has come," General Harris wrote, "when a clear, concise history of this conspiracy and trial should be given to the world. To this task the writer has addressed himself, and he offers this volume as the result of his labors."³



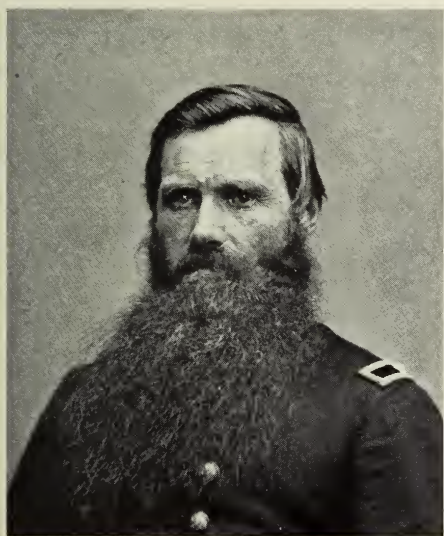
GENERAL LEW WALLACE IN 1893

(Courtesy of Harper & Brothers, New York.)



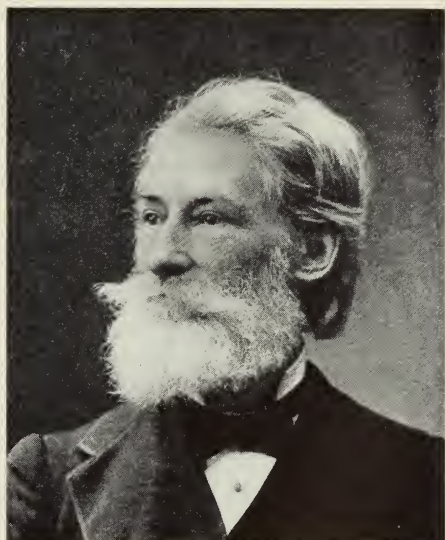
MAJOR-GENERAL DAVID HUNTER

(From the author's collection.)



GENERAL T. M. HARRIS

(L. C. Handy Studios, Washington, D. C.)



BENN PITMAN, CHIEF REPORTER

(L. C. Handy Studios, Washington, D. C.)

THREE OF THE MILITARY JUDGES AND THE CHIEF REPORTER AT THE CONSPIRACY TRIAL

The evidence adduced at the trial led General Harris to believe that Booth and Surratt were agents of the Confederate government. He pictured them traveling through the southern portion of Maryland, bent on securing confederates who would conceal them or assist them in their flight. In this way they had found Doctor Mudd. General Harris also asserted that numerous parties, whose names had never been made known, had taken active parts in the conspiracy. In his opinion, Booth had known all the time that the assassination would take place in Ford's Theatre and therefore had made himself at home there. The kidnaping attempt in March Harris rejected as absurd. "I conclude," he wrote, "that the real purpose . . . was to murder the President . . ." ⁴

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It is difficult to abstain from adverse criticism of Harris' book. His glaring inaccuracies cannot be excused, especially as they tend, without exception, to aggravate the case against the prisoners. To enumerate Harris' errors would be an arduous task; a few examples will serve to illustrate his bias.

General Harris intimates that Spangler had assisted Booth in the preparation of the theatrical box, and states that from the door leading to it "the screws of the fastenings had been drawn . . ." ⁵

The testimony of Thomas J. Raybold (an employee at Ford's Theatre) at the conspiracy trial should have left no room for doubt on this matter. ⁶

I know of the lock on the door of . . . the President's box . . . being burst open . . . On the 7th of March . . . I went . . . to . . . the President's box . . . I could not find the keys . . . I put my . . . foot against it [the door] close to the lock, and with two or three kicks it came open. . . . I do not know whether the lock

was ever repaired after I burst it open. . . . I frequently entered the box afterward, and always passed it without a key.

Doctor Mudd is accused by the soldier-judge of having sent Booth and Herold to Captain Cox's house: ". . . as quickly as it could be done . . . Mudd got rid of his dangerous charge by sending them by an unfrequented route to the house of his friend and neighbor, Samuel Cox . . ." ⁷ No testimony whatever was introduced at any time which would justify this charge. It is purely imaginary.

Another instance: Doctor Merritt, a witness against Jefferson Davis, had given damaging testimony against the former President of the Confederacy. Harris comments, "that he did thus voluntarily, and without compensation, furnish valuable information to the government . . ." ⁸ In 1866, Merritt had confessed that this statement had been fabricated; as to compensation, he had accepted six thousand dollars from the government.⁹ Yet, in 1892, Harris still found it in his heart to write that ". . . his [Merritt's] credibility was not assailed. He was a self-constituted secret service man, working without compensation, and so entitled to all the more honor." ¹⁰

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Notwithstanding his dogmatic opinions, General Harris considered himself an honest chronicler. When he had finished his chapter dealing with Mrs. Surratt, he lent the manuscript to Wiechmann, who made some changes.

"Mr. Weichmann has taken the liberty of making several changes . . . that I can not accept," wrote General Harris to his friend Bingham. "In giving the account of Payne's first meeting with Mrs. Surratt he makes me say that Payne approached her and addressed her in a whisper . . . Now this I

suppose is a fact known to Weichmann but he did not bring it to you when on the stand and so I can't use it . . ." ¹¹

After which protest Mr. Harris nonetheless incorporated Wiechmann's afterthoughts in his volume.¹²

No matter how one may look upon Harris' book, it cannot be regarded as an historical document by the most generously inclined interpreter.

It is a matter of regret that General Harris did not report his personal experiences during the trial, the deliberations which went on behind the scenes, the pro's and con's between the judges, while the fates of the accused were being weighed in the balance. Such intimate details as these would have been a real contribution to the history of the case. Instead, his volume is a mere repetition of the official transcript, interspersed with inaccurate and inimical aspersions, and therefore almost worthless.

That Harris' book was written in a fighting mood rather than in one of reminiscence is the more deplorable as no other member of the commission has left any memoranda of the trial. General Lew Wallace wrote an autobiography, but died before he reached the part dealing with this phase of his life. Wallace had been much impressed by Wiechmann, for whom he expressed unveiled admiration. "I have never seen anything like his steadfastness," he declared. "There he stood, a young man only twenty-three years of age, strikingly handsome, intelligent, self-possessed, under the most searching cross-examination I have ever heard. He had been innocently involved in the schemes of the conspirators, and although the Surratts were his personal friends, he was forced to appear and testify when subpoenaed. He realized deeply the sanctity of the oath he had taken to tell the truth, the whole truth, and nothing but the truth, and his testimony could not be confused or shaken in the slightest detail." ¹³

During the progress of the trial, when General Wallace was bored with the proceedings, he busied himself sketching mem-

bers of the commission, distinguished spectators that thronged the court, and even the prisoners themselves, all except Mrs. Surratt. General Wallace had seen her face but once, when she raised her veil for identification.¹⁴ The sketches of the prisoners may still be seen at the General Lew Wallace Study in Crawfordsville, Indiana.

About General Wallace's good faith and independence of spirit there can be no question. He had proved both when he had presided over a military commission in 1863, "to investigate . . . the operations of the army under . . . Major General D. C. Buell . . . in Kentucky and Tennessee." The then Judge Advocate, Major Donn Piatt, had given the judges to understand that the commission was "'organized to convict'; meaning," as the officer understood it, ". . . that Secretary Stanton and General Halleck were desirous of getting rid of General Buell, and had selected us to do the work."

It speaks well for the character of Wallace and his tribunal that this suggestion achieved the opposite effect. ". . . it left Major Piatt stripped of respect," he wrote; ". . . every member of the commission was thereafter upon his guard."¹⁵

General Wallace never doubted that full justice had been meted out to the conspirators by himself and the other members of the commission, and to his last day professed gratitude that he was allowed "to be an instrument in the hands of God to avenge the death of Abraham Lincoln."¹⁶

4

As the Court Reporters Saw It

The conspiracy trial was reported by a staff of stenographers, or phonographic reporters, as they were called in those early

days of their art. At the head of them was Benn Pitman, who was then conducting a school in Cincinnati, and to whom fell the duty of compiling and editing the official report of the trial.

Pitman was a man of unusual intelligence. Born in England in 1822, he assisted his brother, when only fifteen years old, in perfecting the latter's system of phonography. In 1853 he settled in the United States and became chiefly engaged in reporting, although his inventive genius asserted itself by the discovery of a new process for producing electrotypes. Of his many books on shorthand, *The Manual of Phonography*, published in 1855, was the most popular. The government engaged his services in several important court proceedings, some previous to the conspiracy trial, as in the treason trials in Indianapolis, and some after, as in the prosecution of the Ku Klux Klan.¹

Pitman's personal interest in the conspiracy trial moved him to attempt the preservation of some historical relics connected with it. On June 13, 1865, while still working in the capacity of chief reporter, he wrote a letter² to the Rev. Phineas D. Gurley, Lincoln's pastor, in order to prevent Barnum from getting Booth's hat, for which that enterprising gentleman had offered fifteen hundred dollars.

One object I have in view in making this suggestion, as to the most fitting disposition of these national relics, is to prevent any of them getting into the hands of any vulgar, mercenary showman.

What steps, if any, Mr. Gurley took to preserve various items mentioned as being in Pitman's office is not known. They are not now among the relics in possession of the War Department.

About the year 1900, Pitman published some reminiscences in a Cincinnati paper which gave his own impressions of the famous trial of 1865.³

Some of my reporting experiences during the war [so the recollections read] were of so abnormal a character that they will probably

never recur in the experience of an American phonographer. Looked at from this point of time it would seem a little romantic and very un-American for a reporter to ride from his office to his daily duty at court, in a special conveyance, driven by a United States soldier, and followed by an escort consisting of two mounted cavalrymen, with clanking swords and carrying loaded Winchester rifles, and all to guard the reporter and the transcription of the preceding day's testimony from possible violence and mishap. Yet this was my experience at Washington in the spring and summer of 1865, during the trial of the assassins of President Lincoln. . . .

My duty for several weeks consisted of writing the narration of those who knew anything of the facts connected with the assassination, or with the previous plottings to abduct the President; also as to the alleged implication of the chiefs of the Confederacy at Richmond and in Canada, and further as to the alleged attempts to introduce infected clothing into the Union army and the attempted destruction of United States buildings, vessels, etc. Most of those who were examined were held as witnesses at the trial. Sometimes the assistant Judge Advocate, Colonel, afterward General, H. L. Burnett, conducted these preliminary examinations; at other times they were left wholly to the reporter. I wrote as the witnesses talked, but with constant reminders to avoid irrelevant matters, with such hints as "Well, never mind that; tell us about so and so." These narratives were generally briefed on the same day for the use of the Secretary of War, Mr. Stanton, and the Judges Advocate who were to conduct the trial.

My duties commenced at 9 o'clock in the morning, and I rarely left the War Department until between 10 and 11 at night. A register was kept at the entrance door, and every person, from the Secretary of War to the humblest clerk entering the department, registered his name and the exact time of day. The registration was repeated at each person's exit.

At the trial of the assassins over four hundred witnesses were examined. The proceedings on the busy days required the services of six reporters, among whom were the experts, Dennis F. and J. J.

Murphy, reporters of the U. S. Senate; R. R. Hitt, R. Sutton and Edward V. Murphy. When fewer witnesses were examined I reported the entire proceedings. Two press copies were taken of the transcribed notes by the old-fashioned letter press. Two intelligent privates from the army were detailed to assist me in making the press copies. The original formed the court record, one copy was kept at the War Department, and the other was afterward confided to the writer for the compilation and publication of the proceedings of the trial, and was published by the authority of the Secretary of War, the Honorable Edwin M. Stanton, making an octavo volume of over four hundred closely written pages.

The whole trial was conducted on the theory that the assassination of the President and the attempted assassination of Wm. H. Seward, was the culmination of an organized conspiracy, in which John Wilkes Booth and the eight prisoners who were tried were the active participants; and that Jefferson Davis and other chiefs of the Southern Confederacy at Richmond and in Canada, were the instigators and leaders. Subsequent events have shown that the assassination of President Lincoln was suddenly determined upon by Booth on the 14th of April, when it was known that the President would attend the performance at Ford's theater that evening. . . . It is now well known that the leaders of the Southern Confederacy had no knowledge of the intended conspiracy and had no communication, whatever, with the actors in the tragedy. Some time after the war I chanced to meet Mr. Jefferson Davis on a Mississippi steamboat, and the leisurely ride afforded occasion for a good deal of interesting talk. When Mr. Davis found I had been connected with the assassination trial and held no prejudice against him personally, he was affable and communicative on the subjects respecting which I had a right to inquire. I was fully confirmed in my opinion that the assassination of President Lincoln was entirely without his knowledge or sanction or that of his immediate advisers.

In his reminiscences, Pitman devoted much space to Mrs. Sur-ratt, who had aroused his profound interest.

Among my most vivid recollections of that memorable trial are, first, the patient, pitiful, now hopeful, now despairing, resignation of Mrs. Surratt. That Mrs. Surratt knew of the intentions and plottings of her son, Booth, and Atzerodt, to waylay and abduct the President, there can be little doubt; but that she was wholly innocent of the crime for which she was hanged I have never changed my belief since I compiled the last page of my book.

The reporter's sympathy included the other prisoners also, and he recorded the interesting fact that four of them still were encased in canvas bags when they entered the courtroom with "their heads and faces hooded, leaving only breathing space at the mouth and nostrils." It was, he declared, "a picture never to be forgotten."

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One of the assistants mentioned by Pitman, Edward V. Murphy, also has left behind his memories and impressions.⁴

"The work of reporting the trial itself was extremely arduous," he told an interviewer many years later. "There were no typewriters in those days and carbon paper was unknown; therefore the reporters worked from 9 o'clock in the morning, when the court met, until late in the evening taking testimony, and from late in the evening until 5 o'clock the next morning transcribing it. It was also necessary to make another copy besides the official transcript for the *National Intelligencer*, which printed the testimony verbatim. . . .

"One of the deepest impressions left upon me by that ordeal is that, were I ever to be tried for any crime, I should most earnestly wish for a civil and not a military court before which to plead. Another point which I recall, and which shows, I believe, the prevailing attitude of the court, was that every objection made by counsel for the accused was summarily over-

ruled, while all objections made by the Government prosecutors were sustained without question.⁵ I am thoroughly convinced that, had the trial been conducted before a civil court rather than a military commission, the chances are largely in favor of but two of the conspirators, Payne and Atzerodt, ever having been sentenced to death."

Of Mrs. Surratt's innocence Murphy was firmly convinced.

"Mrs. Surratt was a woman of most exemplary life and character," he said, "a mother devoted to the care and welfare of her children, and a devout Christian. Every action of her life cries out against her complicity in Lincoln's murder and against 'the deep damnation of her taking off' on the purchased and perjured testimony of two interested and discredited witnesses."

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Both Pitman and Murphy comment at length on Louis J. Wiechmann, the star witness for the prosecution and in many ways a man of mystery.

"A dramatic incident connected with this memorable trial," wrote Pitman, "has never yet been told. Among the seizures of property that had been made at the house of Mrs. Surratt, was a carpet sack belonging to one of her boarders, who was a friend and had been a fellow-student of John H. Surratt. The conduct and character of the young man who owned this sack were subjected to most careful investigation, as were all who resided in the house. With other like matters, the carpet sack came to me for safekeeping, examination and report. In this sack, to my surprise, I found copies of my 'Manual of Phonography' and 'Reporter's Companion,' together with a quantity of phonographic exercises. I particularly noticed that the exercises were carefully written, and were dated continuously up to the time of the great tragedy. These were significant facts in favor

of the young man. I could not believe that a student who had recently left college, and who was pursuing a study like phonography, could in any way be cognizant of a conspiracy so dangerous. I soon had an opportunity of making the acquaintance of the gentleman, and found him to be a young man of prepossessing appearance, with a clear and placid eye, and a countenance indicative of intelligence, modesty and conscientiousness. I communicated the fact to the Judge-Advocate, and laid stress upon the fact that the study of phonography without a teacher, save books, required considerable application, and necessarily demanded the time, interest and energy of the student, and that such a one would be a very unlikely person to have anything to do with such a conspiracy. My suggestions received a most careful consideration. The gentleman appeared as a witness in the case, was on the stand three days, and passed through a most trying ordeal unscathed."

Mr. Pitman's logic is questionable. Why should a volunteer student of shorthand have been less a subject of suspicion than an actor or a stage hand? And could their time not also have been fully occupied?

Reporter Murphy had the advantage of a previous acquaintance with Wiechmann.

"The principal witness against Mrs. Surratt was Lewis J. Weichmann," he said. "He and I had been fellow pupils at the Philadelphia High School. I came to Washington upon leaving school, and about two years later met him. I recall vividly my conversation with him, so far as its salient features are concerned. He asked me to call, and thereupon launched into an account of the family with whom he was staying. He extolled in the highest terms the virtues and delightful character of the family, that of Mrs. Mary E. Surratt, and added that the latter was so kind and considerate to him that he venerated her as if she were his

mother. At infrequent intervals thereafter I met him on the street, and upon all such occasions he would renew his invitation. And this was invariably followed by praise of the family, and particularly of its head."

Murphy had served as private secretary to Provost Marshal General Fry while preliminary investigations regarding Lincoln's assassination were being made, and in this capacity he had witnessed a curious spectacle.

While engaged in this work in the War Department one Sunday morning, I had occasion to visit the room assigned to Colonel Burnett, who had been summoned to Washington to assist in the prosecution of the alleged conspirators. Seated in the room I observed my old schoolmate, Weichmann, whom I at once cordially greeted. Upon leaving I was followed into the corridor by Colonel Burnett, who proceeded to question me about Weichmann, my relations with and my knowledge of him. Amazed at the character of the examination, I inquired the reason. Colonel Burnett replied: "You will learn in good time." The following morning in front of the White House I saw Weichmann in manacles being escorted by an armed guard of soldiers to the War Department. The next day I learned that he was charged with being in the conspiracy to murder the President.

I saw nothing more of him until he was placed upon the stand as a witness for the Government during the trial. I observed closely his testimony and the manner in which it was given, and became convinced that he was perjuring himself to save his own neck. When the daily recess for luncheon took place, after Weichmann had been on the stand all morning, he approached me and asked what I thought of his testimony. I replied that I was satisfied he was falsely swearing away the life of an innocent woman, whom he had repeatedly told me he loved as a mother, in order to save his own worthless carcass, and that I would hold no further communication with him.

After Mrs. Surratt's execution Louis J. Wiechmann was rewarded with an appointment as clerk in the Philadelphia Custom

House. By the sheerest accident Murphy saw him there one day and protested indignantly:

Passing through one of the offices in the Custom House during the brief incumbency of ex-Governor Johnston of Philadelphia as Collector, I happened to see Weichmann there. On reaching the Collector's office I expressed my surprise to him. Having been installed in office but a short time previous, he had had no opportunity to acquaint himself with the personnel of the staff. He was amazed to learn that Weichmann had found lodgment there, denounced him as a perjurer, and immediately sent a letter to Secretary of the Treasury McCulloch removing Weichmann and nominating another in his stead.

Several days later the recommendation was returned disapproved. That very night the Governor went to Washington and appeared next morning at the Treasury Department. There he saw McCulloch. "Mr. Secretary," he said, "one of two things must happen; either Lewis J. Weichmann leaves the Philadelphia Custom House or I do. Which shall it be?"

The Secretary tried to appease the Governor, telling him, among other things, that Weichmann had been appointed on the personal request of a Cabinet colleague, who might regard his removal as an affront. Governor Johnston said he knew the Cabinet officer, who did not hesitate to stoop to subornation of perjury, and still vehemently insisted that he or Weichmann would have to leave. Weichmann was removed. Governor Johnston, however, failing of confirmation by the Senate, which at that time rejected all nominations of the President, vacated the office. The old Collector was reinstated and Weichmann was restored to his former position.

Mr. Murphy did not name McCulloch's Cabinet colleague who had been so solicitous about Wiechmann's appointment and "who did not hesitate to stoop to subornation of perjury".

In spite of his reinstatement, Wiechmann's clerical position was not destined to be of long duration, for after two years he was dismissed from the service.

Wiechmann apparently never gave up hope of getting back into government employ. As time passed, he seemed to place more and more value on what he considered his patriotic services at the two trials of the sixties. In February, 1889, Mr. Bingham received a request for help from his former star witness.

Hon. Jno. A. Bingham,
Cadiz, Ohio.

Dear Sir;

. . . I beg to enclose to you copies of recommendation as to the manner in which I discharged my duties in the Philadelphia Custom House.

Therefore, in appealing to you for assistance in the near future, I feel that I have an honorable and consistent record to back me up. . . .

Very respectfully yours,
L. J. Weichmann

Six years later, Bingham received another epistle from Wiechmann. This time its author referred to his "eminent services to the country." On September 17, 1896, Wiechmann was heard from again.

"You, more than any man alive today," he wrote to Bingham, "are aware of the meed of praise to which I am entitled for the sacrifices I made and for the work which I did in connection with that great trial of 1865. . . . I have always felt that I would like to have some brief expression from you in writing as to what you think of the manner in which I performed my duty to the country and of the reward to which I am entitled . . ." ⁶

It is not known what replies, if any, Wiechmann received to these communications.

Mr. Murphy concluded by saying that Wiechmann "was undoubtedly aware of the conspiracy to abduct the President and a

participant in it, although at the same time a clerk in the War Department."

In this harsh opinion the former reporter is borne out by two other witnesses who knew Wiechmann well. Henri Sainte-Marie, a young Marylander who betrayed his friend John Surratt when they met in Italy, wrote in a statement to Rufus King at Rome, June 21, 1866:⁷

I immediately went to the United States consul at Montreal, and informed him what I knew about Surratt and Wiechman, and told him that in my opinion I thought one was as guilty as the other, and acted only through fear in selling his accomplice. . . .

On the tenth of July Sainte-Marie wrote again:⁸

I was living . . . about twenty-five . . . miles from Baltimore . . . I there and then got acquainted with Lewis J. Wiechmann and John H. Surratt . . . At that first interview a great deal was said about the war and slavery; the sentiments expressed by these two individuals being more than strongly secessionists. . . . Wiechmann, who was in some department there [Washington], used to steal copies of the despatches and forward them to him [Surratt], and thence to Richmond.

John Surratt himself, in lecturing five years after the assassination, accused Wiechmann publicly of having been aware of the abduction plot.

. . . he knew of the plot to abduct President Lincoln. I proclaim it here and before the world that Louis J. Wiechmann was a party to the plan to abduct President Lincoln. He had been told all about it, and was constantly importuning me to let him become an active member. I refused, for the simple reason that I told him he could neither ride a horse nor shoot a pistol . . . Booth sometimes was rather suspicious of him, and asked if I thought he could be trusted. I said, "Certainly he can. Wiechmann is a Southern man." And I always believed it . . . because he had furnished information for the

Confederate Government, besides allowing me access to the Government's records after office hours. . . .⁹

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Wiechmann never presented his side of the case to the public, although he contemplated doing so at one time after Clampitt, counsel for Mrs. Surratt, had mentioned him unfavorably in an interview.

"I recently enclosed you a newspaper cutting in reference to the Mrs. Surratt case," he wrote in a letter to Bingham in 1895.¹⁰ ". . . I think Clampitt's lies are not worth the slightest consideration. If, however, in the future he attacks me personally as is threatened, I will astonish him and everybody else by the character of the defense I shall make . . ."

Everybody, it seems, harbored in his memory some secrets never revealed before, not only the detectives and lawyers, but even the witnesses. A year later Wiechmann intimated that he had started writing the history "of that affair"; it was to be published during his lifetime or after his death. "It will be written," he assured his correspondent, "from the strict standpoint of loyalty and truth."

But if Wiechmann wrote this history, it has never been found.

The court reporter Murphy had the unusual courage to make a belated plea for the other victims to whom the infamous military commission had dealt out such severe sentences.

Atzerodt and Herold, with Mrs. Surratt and Payne, were the two others who paid with their lives for Lincoln's death. Atzerodt, according to his own confession, knew nothing of the assassination plot until two hours before it was carried out, and then refused to have anything to do with it. And whether from fear or otherwise, it is at least certain that he made no attempt to carry out his allotted share in that plot—of killing Vice President Johnson.

That he had been in the plot to abduct the President there can be no question, and had he been tried on that charge would have been justly convicted. It is questionable, however, whether he should have paid the price he did for the charge on which he was tried.

Most uninteresting of all the prisoners, Atzerodt had a stupid, stolid look, indicating a low order of mental development, and a total absence of any spirit that would have led to the commission of any act requiring the slightest degree of courage or daring.

Herold seemed entirely unaware of the gravity of the situation in which he was placed, or of the probable fate that was before him. He had accompanied Booth after the murder, and was with him when he was shot. According to the testimony he was a boy of light and trifling character.

To me it seems impossible that a man of Booth's attainments and shrewdness would have confided his plans and plots to a creature so irresponsible. Herold, however, was familiar with the roads and had a large acquaintance among the people of that portion of Maryland through which Booth had planned to make his escape, so that his use of the immature youth merely as a pilot would seem the far more logical conclusion. Also it would be but natural for Herold to have been highly flattered by being made the companion of a man so eminent in the dramatic world as Booth and to become his willing tool and slave. But he was not the stuff of which conspirators are made. Booth himself, just before he died, said: "I declare before my Maker that the man here is innocent of any crime whatever."

The former court reporter even found some kind words for Edward Spangler, the forgotten man among the prisoners. The happy-go-lucky stage hand had been dragged into the conspiracy net by the fantastic statements of an irresponsible sergeant named Dye and by vague accusations on the part of terrified and hostile fellow employees. So far as Dye was concerned it was a clear case of mistaken identity. Only the well-substantiated fact that Spangler had never been seen with a mustache, while the tough-looking loungeur whom the young sergeant observed in front

of Ford's Theatre was bearded, saved this prisoner from capital punishment or a lifelong prison term.

Spangler was a ne'er-do-well, a scene shifter in Ford's Theatre. On the night of the assassination, when Booth dismounted from his horse at the stage entrance, it was Ned Spangler whom he called to hold the animal. In a few minutes, however, Spangler was summoned to shift the scenes, and he, in his turn, called a boy named Burroughs, known as "Peanut John," to care for his charge. . . .

Save for the fact that he held Booth's horse, the only other evidence against Spangler was that upon hearing of the crime Booth had committed, he exclaimed, raising his arm: "Shut up! Booth didn't shoot him!"

But it must be taken into consideration that Booth, in his many visits to the theatre, was in the habit of tossing a quarter to obscure Ned Spangler; add to this the high position held by Booth in the dramatic world, and it seems but natural that when his patron was accused of such a heinous crime he should have attempted to defend him.

On Dr. Samuel Mudd the reporter bestowed considerable sympathy.

When Booth fled into Maryland, his first thought was for a physician, in order that his leg . . . might be set. Upon reaching the locality in which Dr. Mudd lived, he sought his services, and the physician, not having heard of the assassination, treated and splinted the wounded limb. . . .

It was testified that Booth had made a trip through the section of country over which he subsequently attempted to escape, under pretext of desiring to buy a farm, and that he called upon Dr. Mudd to make inquiries as to the character of the land there. It was also claimed that he had previously met the doctor in Washington. If this was so, Dr. Mudd probably recognized Booth in the first instance, and told the lie to shield himself. But he does not appear to have had any connection whatever with the conspiracy.

The remainder of the accused Mr. Murphy remembered only dimly.

I recall but little of the other two—Arnold and O’Laughlin—save that the testimony against them was of the flimsiest character imaginable. Certainly neither of them committed any act warranting life imprisonment, though they were probably for a time participants in the plot to abduct the President. The charge on which all the prisoners were tried, however, was assassination, and not abduction. On the latter charge four or five of them might properly have been convicted before a competent court having jurisdiction.

5

Colonel Wood Speaks Out

There was one man in Washington who probably had more inside knowledge of Lincoln’s assassination than anyone else, more than the Bureau of Military Justice, more than Lafayette C. Baker of the secret service, in fact, more than anyone except the Secretary of War himself. This man was Colonel William P. Wood. Erratic, picturesque, shrewd, but always intensely human, Wood had been soldier, filibusterer and model maker. Under Stanton’s regime he had become superintendent of the Old Capitol prison, one of Washington’s most dreaded bastilles. After the end of the war he was to achieve glory as detective for the Treasury Department.¹ Under his gruff surface Wood hid an intrinsically honest heart. By 1883 many of the principal actors in the great drama of eighteen years before were dead—President Andrew Johnson, Secretary Stanton, Chief of Detectives Baker. It was then that Wood decided to speak out and in a series of articles for the *Washington Sunday Gazette*² lift the veil of secrecy under which some past events had lain hidden.

"This unfortunate lady," he began, speaking of Mrs. Surratt, "was as innocent of any connection with the assassination of President Lincoln as any of the officers who sat upon her trial . . ."

Even in 1865 Wood had tried to help the widow of whose innocence he had felt convinced. "During the trial of Mrs. Surratt," he wrote, "the writer was summoned and attended the trial as a witness in her defence. It was well-known by the officers of the Government that his purpose was to save the unfortunate woman from death, if possible; but the conduct of the trial showed conclusively that her execution was a predetermined fact, and that any attempt to save her would be useless."

After the death sentence had been pronounced, Colonel Wood did his best to have it rescinded. "The writer tried to gain access to President Johnson," he related. "He sought admittance to the White House both by the front and rear entrance, but was denied admission. At the last attempt he was confronted by L. C. Baker, who declared he had orders from Mr. Stanton that the writer particularly should be excluded from audience with the President, but he could not believe this possible until Baker exhibited written instructions to that effect."

The relations between the detective Baker and the superintendent of the Old Capitol prison had become strained during the hectic days following the tragedy at Ford's Theatre, when Stanton entrusted Baker with the pursuit of the assassins. The reason for Stanton's preference was apparent to Wood. "The Secretary of War," he explained, "knew my desire to save Mrs. Surratt as I had promised, and Baker, who had heretofore been under a cloud with Stanton, but who loomed up after the capture of Booth, caused Mrs. Surratt's removal from my charge at the Old Capitol Prison . . . In justice to other officers of the War department it is proper to state here that there was no of-

ficial of that Department connected with the matter who did not protest against the course adopted with Mrs. Surratt."

Wood then slashed out at Wiechmann, the government's star witness against Mrs. Surratt. "This corrupt scoundrel," he wrote, "betrayed his official trust by compiling statistics and information in the interest of the Confederacy, and using his official connection as a cover he often went into southern Maryland with Mrs. Surratt to deliver his information.

" . . . Directly after the arrest of Mrs. Surratt, Weichmann was arrested," Wood continued, "and to save [himself] from imprisonment evidently gave such testimony to clear himself as implicated this unfortunate lady with the conspirators."

Wood then expressed his opinion that the assassination plot had been conceived spontaneously. He believed that there had been no premeditated plan of assassination and that the action of the conspirators had been taken upon the spur of the moment. The whole time of the conspiracy had been less than thirty hours. All the parties to it were rather insignificant characters, and Booth, the leading spirit, appeared to Wood as of unsound mind.

If these had been Wood's convictions as far back as 1865, it is small wonder that he became *persona non grata* with Stanton and the Bureau of Military Justice, whose successful prosecution of Mrs. Surratt, O'Laughlin, Arnold and Doctor Mudd depended on proof that the assassination had been decided on many weeks previous to its execution. The two last named in particular had not been in Washington for weeks, and it was not even asserted by the government that they had been in touch with Booth during that time. If the murder was a spontaneous affair, they could only have been connected with the plot to kidnap, but not with that of the assassination.

In return for certain information leading to Booth's place of refuge, Wood wrote that he had promised Mrs. Surratt's brother

to endeavor to prevent her execution. As a matter of fact, he had really promised far more than a mere "endeavor to prevent the execution of . . . Mrs. Surratt"; instead, he had made a positive guarantee to save her, with the authority of the Secretary of War behind him.

Eventually, President Johnson also learned of the promises held out to Mrs. Surratt. Colonel Wood intimated that when Johnson heard of Stanton's treachery toward the woman prisoner, he lost patience with his War Minister.

"President Johnson sent for the writer, and an explanation was made in the matter . . . Shortly after August 5, 1867, Johnson requested the resignation of Edwin M. Stanton . . ."

An interesting part of Colonel Wood's story has no relation to the trial itself, but deals with his relations to Secretary Stanton. Wood served his former master faithfully to the end, and describes a visit he paid to the latter's home on the day before his death. Stanton was fearfully worried about the case of Mrs. Surratt.

"In his broken-down and depressed conditon," Wood reported, "he declared that he was haunted day and night by visions of the unfortunate woman, and that he could not live under the pressure he was bearing . . ." And then the conversation between these two men took an extraordinary turn; ". . . to quiet him," said Wood, "*I assured him that no publication of facts in the matter would be made during his lifetime, and that if I should die first the papers should be destroyed.* This temporarily quieted him . . . on the day following, his death was publicly announced . . ."³

The very crux of the mysteries surrounding Lincoln's death may lie behind these few words. Unless Colonel Wood wrote a deliberate lie, the implication is plain. *The former superintendent of the Old Capitol prison was in possession of hidden facts and papers pertaining to Mrs. Surratt's death.* The publication of

these facts was a vision which filled Stanton with terror. It may have been only the conscience of a dying man asserting itself which caused this emotion; or else the death of the widow was but one link in a chain of events which had to remain buried for the sake of the ex-War Minister's peace of mind and reputation.

In view of the innumerable intrigues which dotted the life of Stanton and the countless death warrants he had signed without remorse, it is noteworthy that his last thoughts centered with such disquietude on the comparatively unimportant conspiracy trial and its most prominent victim.⁴

☆ IX ☆

IN the background of the mysteries which veil Lincoln's assassination, of the iniquities of the conspiracy trial and the horrors of torturing the prisoners, hovered the same sinister figure—that of War Minister Stanton. After Lincoln's death, Stanton became the most powerful man in the country. For more than three years he had built up a machine against which resistance was hopeless. An army of secret service men and provost marshals was at his beck and call. He had installed a censorship over the press which was not less menacing because it was not clearly defined. He controlled the telegraph wires and could order the court-martialing of anyone who dared oppose him. For a time following Lincoln's death he was for all practical purposes dictator of the United States; but even long before then he had installed a veritable reign of terror throughout the Northern states—

IX

Stanton's Reign of Terror

IN HIS vast arsenal of power Stanton had one weapon which was formidable beyond any other: the military prisons. Within their silent walls he could bury his enemies with no fear of consequences. After Lincoln had suspended the *habeas corpus* act—a writ guaranteeing a judicial hearing to anyone detained against his will—those whom the military chose to arrest could be held without recourse to the courts and even without charges being preferred against them. Compared with such absolutism, even Stanton's control of the telegraph and his influence over the press dwindled into insignificance.

Stanton did not originate the idea of the arbitrary arrests—a designation used eventually by advocates and opponents alike. These seizures were already in vogue when he entered upon his duties in Lincoln's Cabinet. On April 27, 1861, prior to the assembling of Congress in July, the President had authorized General Scott to suspend the privilege of *habeas corpus* at any point on the line of troop movements between Philadelphia and Washington.¹ By July 2, the line was extended to New York, and on October 11 to Bangor, Maine. Without other authority, Secretary of State Seward, who had somehow attached this prerogative to his department, began to issue orders for the arrest and imprisonment of persons suspected of disloyal acts or designs in all parts of the country. Seward was quoted as having once boasted to Lord Lyon, the British ambassador: "My Lord, I

can touch a bell on my right hand, and order the arrest of a citizen of Ohio; I can touch a bell again, and order the imprisonment of a citizen of New York; and no power on earth, except that of the President, can release them. Can the Queen of England do so much?"²

On October 28, 1861, Secretary of State Seward authorized General McClellan to suspend the *habeas corpus* act in Maryland "and make arrests of traitors and their confederates in his discretion." McClellan in turn delegated the power to suspend the constitutional guarantees of American citizens to other subordinate officers.³ Thus the seeds for a reign of terror were carelessly sown. They were soon to bear fruit of a most unwholesome nature.

The military departments welcomed this addition to their power, and even Generals McClellan and Dix, politically opposed to the administration, lent their willing support. Chief Justice Taney of the United States Supreme Court filed an opinion, however, to be laid before Lincoln, in which he denied the right of the President to suspend the writ of *habeas corpus*, affirming that such power was vested in Congress alone.⁴ But Taney was suspected of Southern sympathies, and therefore his judicial pronouncement was disregarded. On July 12, 1861, the House of Representatives asked for a copy of Taney's opinion, but took no further action.⁵

Lincoln had suspended the privilege of the writ of *habeas corpus* on advice of his Attorney General, Edward Bates. On October 26, 1865, after the mischief caused by the suspension had become history, Bates discussed this matter in his diary,⁶ making an ingenious effort at defense.

"Some men," he wrote, "apparently, very sensible men too, have, as it seems to me, very strange ideas about the *Hab:[eas] Corp:[us]*—They seem to think that the *suspension of the privilege of the writ*, confers upon the Government, (or the officers

of the Government) the lawful power to arrest and imprison whomsoever it will, and for whatever length of time it pleases. This is a great error. . . . The most that can be accomplished by the writ of Hab: [eas] Corp: [us] is the discharge of the prisoner from illegal restrai[n]t. It affords him no redress for the personal wrong done to him . . .

"The suspension of the privilege of the writ . . . does not suspend the privilege of the *writ of trespass*. And hence, a man illegally imprisoned and without the right to issue a writ of *habeas corpus*, may, nevertheless issue his *writ of trespass*, and recover damages against his unlawful jailer, *while he is still in prison*. . . ."

If Bates had possessed a sense of humor, which he did not, one might be tempted to consider this dissertation an ill-timed joke. The military prisoners were hardly ever permitted to see a lawyer, unless a trial was intended, which was infrequent; their whereabouts were generally unknown to their families and friends. The chief complaint of these victims of military law was not the question of possible damages, but their incarceration. Furthermore, any action against the "unlawful jailer" would have resulted in quick reprisals.

When Stanton became Secretary of War on January 20, 1862, he immediately recognized the tremendous potentialities of these arbitrary arrests. He had been in office only three weeks when he had Lincoln transfer this power over the liberty of citizens exclusively to the War Department. On February 14, 1862, the President issued Executive Order No. 1, signed by the Secretary of War. In this lengthy document, evidently composed by Stanton, many claims were set forth, a number of them typically exaggerated: "The capital was besieged and its connection with all the States cut off. . . . Armies, ships, . . . were betrayed or abandoned to the insurgents. . . . The insurrection is believed to have culminated and to be declining. . . ."

Of course, Washington had not been besieged, no armies or ships had been betrayed and the fortunes of war were then still with the Confederates; but all that was really beside the point. The meat of the kernel was well hidden in this cloud of verbosity. It consisted of very few words.

. . . Extraordinary arrests will hereafter be made under the direction of the military authorities alone.

It was Stanton's first great triumph.

"... Lincoln had seen fit to transfer the license of making arbitrary arrests from the Secretary of State to the Secretary of War," commented Senator Trumbull in later years. Then he added thoughtfully: "The change was no betterment, however, for, where Seward had previously chastised the suspected ones with whips, Stanton now chastised them with scorpions. Arbitrary arrests became more numerous and arbitrary than before."⁸

A commission of two members was created to examine the cases of the "State prisoners", men who had been arbitrarily deprived of their liberty under Secretary Seward's regime. General John A. Dix, who was appointed to the commission on February 27, 1862, was amazed at what he found in these military prisons even that early in the war.⁹

"I was yesterday at Fort Wool," he wrote to General Mansfield, on August 12, "and discharged a large number of prisoners . . . I examined several of them, and am satisfied that they have committed no act of hostility against the United States. That they sympathize with the insurgents there is no doubt . . . So long as they continue quietly about their business they should not be molested.

"The exercise of this power of arrest is at the same time the most arbitrary and the most delicate . . . and it is one which should not be delegated to a subordinate. I find that many . . . were arrested . . . on suspicion. This must not be repeated. . . ."

A few days later, having received a reply to his letter, he sent further instruction to General Mansfield.

In regard to arrests . . . there was at least one, and I think more, for which there was not, in my judgment, the slightest cause. . . . The arrests were made without your order . . . When Judge Pierrepont [the other member of the commission] and I examined the cases of political prisoners . . . from Washington to Fort Warren [Boston], we found persons arrested . . . who had been lying in prison for months without any just cause. For this reason, as well as on general principles of justice and humanity, I must insist that every person arrested shall have a prompt examination . . .¹⁰

Three months after General Dix had been appointed a member of the investigating committee, he was suddenly transferred from Baltimore to Fortress Monroe. General Dix was a highly efficient officer and his transfer gave rise to much inquiry and comment.¹¹ Dix's son opined that the order amounted to removal from the command of a Department and assignment to a mere army post. No official explanation for this demotion was ever given. Could it be that Stanton had weighed General Dix's humaneness and found it excessive? "The secret history of the war," wrote Dix's son in 1883, "would give the explanation, but this is at yet unwritten." So far as this incident goes, it is still unwritten now, two generations later.

On September 24, 1862, Lincoln issued a proclamation giving Stanton's promiscuous incarcerations his full backing. A storm of protest followed. Former Supreme Court Justice Benjamin R. Curtis, a native of Massachusetts and a strong Republican partisan, asserted publicly that Lincoln had made himself a legislator, had superadded to his rights as commander the powers of a usurper, "and that is military despotism." Judge Curtis had filed a minority opinion against Taney's Dred Scott decision in 1857 and was a man of undoubted loyalty and fine legal

acumen. His judgment foreshadowed what the United States Supreme Court would later announce by unanimous decision: that these arbitrary arrests were illegal.¹² At the time Curtis' pamphlet appeared, however, it exerted no lasting influence.

The day following Lincoln's decree, far-seeing Gideon Welles remarked in his diary:

The President has issued a proclamation on martial law,—suspension of *habeas corpus* he terms it . . . Of this proclamation, I knew nothing until I saw it in the papers, and am not sorry that I did not. I question the wisdom or utility of a multiplicity of proclamations striking deep on great questions.¹³

In the fall of 1862 Congress passed an act (which became a law on March 3, 1863), directing the Secretary of State and the Secretary of War "to furnish to the judges of the United States circuit and district courts lists of political prisoners now or hereafter confined within their jurisdiction, and made it the duty of the judge to discharge . . . those prisoners against whom the grand jury . . . found no indictment. If the lists were not furnished within twenty days, . . . relief was provided for any citizen who suffered from the arbitrary action of the authorities."

No such lists were ever furnished to any court, so far as is known. The law remained a dead letter throughout the war. The relish for autocratic government had developed to such an extent that, according to the diary of Salmon P. Chase, Secretary of the Treasury, in September of 1863 the provisions of this act were unfamiliar to all his colleagues in the Cabinet and even to Lincoln himself.¹⁴

In order to keep full control over his principal punitive weapon, the Old Capitol prison, Stanton created a secret service of his own, under the guidance of his devoted assistant, Peter H. Watson. This Assistant Secretary of War had been a patent



COLONEL WILLIAM P. WOOD
(Courtesy of the McCormick Historical Association, Chicago.)



The Old Capitol Prison.
(L. C. Handy Studios, Washington, D. C.)

attorney in Washington and had been associated with his chief in the unsavory McCormick reaper case. He was described as a short, stout man, with red hair and beard. Under his direction a system of secret police was organized, consisting of only one man at first, but developing gradually into a regular force called "National Detectives", commanded by Colonel L. C. Baker. This army of about two thousand, of which Watson remained the general commander, was a law unto itself.¹⁵ Eventually, Baker was appointed special provost marshal of the War Department, which gave him practically uncontrolled power. The Pinkerton detectives, who up to that time had played a part in the secret service of the War Department, were discharged, and Baker became the czar of his own realm, subject only to Stanton's orders.

"... this creation of a regiment of detectives could be explained by nothing except a growing spirit of absolutism in the War Office," commented Provost Marshal William E. Doster, whose own business at that time also was the arrest of the government's enemies, but to whom "the establishment of a special prison . . . and the subjection of people to mental torture by a thousand lawless characters, appeared entirely inexcusable."¹⁶

"The great fault of this prison (and one for which the Secretary is and ought to be blamed)," Doster continued, "was that it operated like a rat-trap—there was only a hole in but no hole out; in other words, plenty of provision for arresting people, but none for trying them or disposing of their cases.

"Baker could arrest, the detectives could arrest, the military governor could arrest, the provost marshal could arrest, the Secretary and each of his two assistants could arrest, but none of them could discharge without running great risk of getting into trouble with some or all of the others. . . .

"General Wadsworth [Washington's military governor in 1862] felt this matter very keenly, and could never allude to it

without expressing his indignation at the Secretary's policy. . . . The charges against the people incarcerated by order of the Secretary were on file in the War Office, but neither I nor the Governor were allowed, as a rule, either to see the prisoners or to hear what was alleged against them."¹⁷

This minor provost marshal often wondered why Stanton and Watson took a personal interest in such local matters as the secret police, even going so far as to ignore the military governor and department commander; "there was no honor or glory to be gathered in such things by a Minister of War; on the other hand, a great deal of odium," this officer mused.¹⁸ It probably did not occur to him that the secret service was a source from which boundless power could be made to flow.

Some arbitrary arrests on the part of the military put Lincoln into an embarrassing position. In 1863, Congressman Vallandigham, legally elected, even though he was considered "the incarnation of Copperheadism", was taken into custody by General Burnside for alleged treasonable utterances, tried by a military commission in Cincinnati, found guilty, and sentenced to close confinement in Fort Warren. Lincoln cleverly commuted the sentence to banishment across the army lines and handed Vallandigham over to his supposed friends, who were not overly happy to receive him. The humor of this situation appealed to the general public, friend and foe alike, but the President did not escape violent criticism. Under the act passed March 3, 1863, it would have been the duty of the Secretary of War to report Vallandigham's arrest within twenty days to the United States District Judge for Southern Ohio, with a full statement of the charges, so that a jury might pass on them. According to the law, any officer violating this act made himself liable to fine and imprisonment. But no such report had been issued.

"The arrest of Vallandigham . . . by General Burnside have [has] created much feeling," Welles told his diary. "It should

not be otherwise. The proceedings were arbitrary and injudicious. . . . Good men, who wish to support the Administration, find it difficult to defend these acts. . . . I lament that our military officers should, without absolute necessity, disregard those great principles on which our government and institutions rest.”¹⁹

The intrepid Seymour, governor of New York, used still stronger words of criticism. He denounced Vallandigham's arrest as “an act which . . . is full of danger to our persons and our homes. If this proceeding is approved . . . it is not merely a step toward revolution, it is revolution. . . .”²⁰

When vehement protests from Northern Democrats were submitted to Lincoln, he defended Stanton's dictatorial actions with great skill; but when a committee of the Ohio Democratic State Convention held that “. . . the charge and the specifications on which Mr. Vallandigham was tried entitled him to a trial before the civil tribunals according to the express provisions of the late acts of Congress approved by yourself . . .,” Lincoln was unable to refute this indictment. His opponents retorted that his answer was “a mere evasion of the grave questions involved,” and Senator Trumbull of Illinois, a Republican who supported the Administration, held that it was the only instance in Lincoln's controversial writings, so far as he knew, where such a criticism seemed justified.²¹

The Supreme Court, when confronted with the necessity of a decision in the Vallandigham case, adroitly sidestepped the real issue. It stated that even if his arrest had been illegal, there was no law by which it could entertain any appeal from a military commission.²² Eventually, the highest tribunal ended these illegal practices of the War Department through its verdict in the famous Milligan case. By that time, however, the war was over, and the decision offered small consolation to those who had lost their fortunes, their health, and often their lives during Stanton's reign of terror.

Carl Schurz, who had left Germany in 1848 to seek freedom instead of tyranny, many years later devoted a few lines of his autobiography to these arbitrary arrests. A champion of liberty and a staunch admirer of Lincoln, he looked back on them in doleful perplexity.

"The government was," he wrote apologetically, "under the stress of circumstances, doing things highly obnoxious to the fundamental principles of constitutional liberty. It incarcerated, without warrant or due process of law, men suspected of aiding the rebellion. . . . On the plea of urgent necessity . . . it adopted methods . . . familiar to despotic rule, and having a strange sound in a democracy. . . ." ²³

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Of all the military strongholds under Stanton's domination, the Old Capitol prison became the best known and the most feared. It stood only a block away from the nation's capitol, yet it became in the course of time the symbol of unlimited tyranny.

The prison derived its name from its use as a meeting place for Congress, after the British had burned part of Washington in 1814.²⁴ When hostilities began in 1861, the government took it over for use as a political prison. Soon it was crowded beyond its capacity with political suspects, Confederate sympathizers, spies and prisoners of war.

The day before Stanton proclaimed that he had taken over the power of arbitrary arrests, he installed as superintendent of the Old Capitol prison one of his most trusted lieutenants, Colonel William P. Wood, with the result that when the decree was issued the institution was ready to function under its new management.²⁵

Congressman Albert G. Riddle of Ohio remembered Colonel Wood as a "rough, uncultured man, despotic, but kindly na-

tured, and not intentionally harsh; yet how could he be otherwise to men imprisoned for no defined offence, . . . who, when discharged, were dismissed without explanation or compensation.”²⁶

“ . . . he had a good heart,” it was said of him by an otherwise unfriendly critic, “when his better feelings were not thwarted by his prejudices, and especially by his partisan failings. When the dictates of humanity, and the interests of party conflicted with each other, the struggle for mastery was often strong and violent. The partisan generally had the best of it in the outset, but in due time passion became gratified, reason asserted its influence, and the finer feelings of the heart took possession of the man, and directed his actions.”²⁷

One of his former prisoners even looked upon the superintendent of the Old Capitol prison with apparent admiration.

There are few men such as Col. Wm. P. Wood. He is a unique figure . . . Whilst an avowed infidel, he practised the virtues of the Christian religion; while he had no respect for man as man, . . . he adored nature and worshiped at her shrine. As a friend he never wavered . . . As an enemy he never sheathed his sword . . .

Nor was he without a sense of humor. On one occasion he entered a room in search of a preacher. When an old parson arose, Wood exclaimed,

“My God, who would ever take you for a preacher?”

To which the parson quickly replied,

“Well, . . . I came very near taking you for a gentleman.” Everyone laughed, and none more heartily than the warden himself.²⁸

As head of his bastille, Wood did his best to have the letters of the inmates pass speedily through the censorship of the provost marshal,²⁹ and he exerted all his influence to furnish them with suitable food. At one time General Mansfield, when mili-

tary governor of Washington, gave orders that the prisoners should be fed on side pork and hard biscuit, the worst that could be procured. Mr. Wood remonstrated, saying that his charges were not convicts, that they were under no sentence of any tribunal, but were merely held to await a trial, and that most of them were gentlemen.

The general thereupon exploded, and with an oath ordered that his instructions be followed, for "they are all traitors, or they would not be there." But Wood angrily stood his ground.

"The prisoners are just as good men as you are," he thundered in the face of his superior, "and I'll be damned if they are not going to have good bread while I am Superintendent of the Old Capitol." He then made good his word by engaging bakers near the prison to furnish the supplies that were needed.³⁰

The most astounding fact about Wood was that he alone, of all Stanton's underlings, never bent his knee to the grim-looking War Minister. On the contrary, Stanton seemed to stand in unholy terror of this subordinate. The story went the rounds that Wood "was deeper in the War Office than any man at Washington, and . . . that Stanton was at the head of the War Office and Wood was at the head of Stanton."³¹

Together with this story, as told by Major Doster, went a convincing sample of proof.

I remember once that finding occasion to make some rule sanctioned by the Secretary, and demanding obedience to it, Wood refused contemptuously to carry it out, and on my applying to Assistant Secretary Watson for a special order to enforce it, Watson told me that when the order giving Wood unlimited power in the Old Capitol was issued, Provost Marshal Porter [in whose regiment Wood had once served] came to the War Department one day furious with rage, saying his own orders had been contemptuously rescinded by "that dog of a citizen Wood," whom he used to tie up

by the thumbs in New Mexico, and on the ground that he was amenable to no one but the Secretary himself, Porter demanded Wood's instant dismissal from the post. Stanton heard him out and then gave him the alternative either of being insulted by Wood or resigning his commission.³²

According to Wood's own story, he was the only man whose commission Stanton had ever written out in his own hand—"Wm. P. Wood, Colonel of Cavalry."³³

It is not known why the austere, well-bred Secretary of War let himself be led by this rough and ready soldier of fortune whom he had appointed to an important position. Stanton used to say, "I do not always *give* a reason, but I always *have* a reason for what I do."³⁴ In this instance he did not see fit to reveal his reason.

In 1865, Wood showed his independence of Stanton's wishes by appearing as a defense witness at the conspiracy trial.³⁵ What he said there was of no great importance. The significant fact is that he had the courage to appear for the defense at all, knowing as he did that his action would be frowned on by the War Department. There were major generals in Washington who would not have dared to do this.

Wood had very little regard for the proprieties of the service. He did pretty nearly as he pleased, knowing that the Secretary of War would protect him. General Hitchcock, when acting as commissioner for exchange of prisoners, once strongly objected to Wood's independent ways. On his return from a semi-espionage venture behind the enemy's lines, Wood was upbraided for lack of discipline.

"... you appear to have exercised functions not committed to you," Hitchcock wrote him on February 7, 1863. "... you were directed 'to proceed to Richmond ... for the purpose of delivering exchanged ... prisoners ...' This paragraph covers your authority and it does not empower you to enter into gen-

eral negotiations with Confederate authorities, yet the copy you furnish shows that you assumed that power . . .”³⁶

The probabilities are that when Wood received this castigation he snapped his fingers and continued to follow his own whims and wishes.

General Hitchcock was not the only high officer to complain about Wood’s insubordination. During one of the superintendent’s visits to Richmond for the exchange of prisoners, General John A. Dix was prompted to send this furious telegram to Stanton:³⁷

FORT MONROE, *October 31, 1862.*

Hon. E. M. Stanton:

Mr. Wood is here and refuses to report to me though ordered to do so. If he were a military officer I would put him in the guard-house. As it is I send him on by the Baltimore steamer and with him a man by the name of Woodall, formerly a detective in the service of the rebels and probably so yet, as he is with Mr. Wood by their permission. . . . Mr. Wood has also brought with him a clergyman by the name of Conrad—a case which I think should be looked into at Washington where he has been confined.

JOHN A. DIX,
Major-General.

Conrad was a well-known Confederate scout, and his association with Wood certainly should have been “looked into.” With a hundred miles separating Stanton from his overbearing prison superintendent, the War Minister gathered enough courage to reply in words which may well have reflected his innermost desire.

WAR DEPARTMENT, *October 31, 1862.*

Major-General DIX:

You should have sent Wood to the guard-house. When you think any man deserves it “shoot him on the spot.”

EDWIN M. STANTON,
*Secretary of War.*³⁸

In less than a year the Old Capitol prison had become a dungeon that was a nightmare to loyal and disloyal subjects alike. People of all sorts suddenly disappeared and after a long interval of fruitless search were found to have last been seen entering Wood's stronghold. There no one could visit them, not even the Provost Marshal General or the Military Commander of the District of Columbia, nor could anyone discover why they were there. Even feeble remonstrance against the incarceration of these unfortunates was dangerous.

Wood often boasted of his skill as an inquisitor. His way was, he said, never to approach his prisoners until solitary and prolonged confinement had made them anxious to talk. Then he would pose as a personal friend who could arrange a speedy release, provided the suspect confessed. "In time," wrote an officer, "the most innocent would acknowledge himself guilty . . ." ³⁹

Private conversations with friends were arranged and taken down, and if no such friends were available, detectives who feigned guilt were put into the same room with the prisoner. In obstinate cases Wood did not hesitate to counterfeit testimony. Horrors of the Old Capitol prison had only to be mentioned, and recalcitrant spirits were quickly subdued. The War Minister showed his whip hand on many occasions, particularly where gossip was bound to carry the threat into wide channels. He was in the habit of doing his own marketing three times a week, and could not forego such an opportunity to brag about his power.

"Politics among the stallholders," wrote a contemporary observer, "was of a divided kind, and the Secretary, who knew how each of his purveyors stood, fashioned his gossip with them accordingly. With the Confederate sympathizers he usually assumed a bantering tone, wherein, however, he found opportunity now and then of enjoining a strict neutrality upon all but

their tongues. His playful threats of incarceration in the Old Capitol the garrulous ones were fond of repeating . . ." ⁴⁰

One wonders if the humor of these playful references to the dreaded cells was greatly enjoyed by Stanton's audience. The War Minister's colored servant, "Old Madison," was less facetious in his implied threats to possible victims. If a visitor was dissatisfied with the treatment he had received at the hands of the Secretary, the servant took the stranger into the hallway, gave him "a real good talking to," and if he still remained sullen or combative, Madison made some mysterious allusions to the Old Capitol prison. There was no further resistance. ⁴¹

At one time a provost marshal asked Stanton for an audience. "I want a half-hour of your time to state my case," he said. Stanton rose from his chair, and looking sternly at the unhappy man before him, replied: "Do you know that I have put a man in the Old Capitol Prison for demanding half an hour of my time?" ⁴²

This almost unbelievable state of affairs endured until Stanton, in a spirit of unrestrained despotism, arrested an entire New York State commission, charging the members with fraud (of election rights of soldiers) and with conduct prejudicial to the military service of the United States. The arrest took place in the fall of 1864, but the roots of this strange story reached back into the spring of that year.

In May, 1864, the entire staffs of the *New York World* and of the *Journal of Commerce* had been thrown into Fort LaFayette for falling victims to a hoax. ⁴³ It had been a debatable case which Lincoln had directed in person. After the release of the prisoners, Governor Seymour of New York, aroused at the high-handed methods of the Washington authorities, instructed the district attorney of New York to start criminal proceedings

against the local commander of the United States troops. In his request for an indictment, Seymour stated the case succinctly:

If the owners of the above-named journals have violated State or national laws, they must be proceeded against and punished by those laws. Any action against them outside of legal procedures is criminal.

But the grand jurors, with the threat of Stanton's prisons hovering over them, reported that it was "inexpedient to examine into the subject." Thereupon the governor sent a scathing letter to his district attorney.

. . . the Grand Jury, in disregard of their oaths . . . have refused to make . . . inquiries . . . As it is a matter of public interest that violations of the laws . . . be punished, . . . it becomes my duty . . . to take care that the laws of the State are faithfully executed.⁴⁴

On June 28 Judge Russell of the City and County Court issued a warrant for the arrest of General John A. Dix and some of his aides. Counsel for the defense at once announced that Lincoln had ordered General Dix to disregard the process of the court and not to allow himself to be arrested or deprived of his liberty.

Secretary Welles, referring to a meeting of the Cabinet, made a pointed entry in his diary.⁴⁵

The subject of the arrest and trial of General Dix in New York . . . was brought forward. There was a little squeamishness with some on the subject. The President very frankly avowed the act to be his, and he thought the government should protect Dix. . . .

I expressed no opinion, nor did Blair or Bates. . . . I regret that the papers should have been suppressed or meddled with . . .

In the end, Welles arrived at the "hasty conclusion" that now that things had come to this sorry pass, the trial of an officer by a State judge for obeying an order of the President should not

be permitted. "If there is a disposition to try the question before the United States tribunals," he added, "it would be well to permit it." But no such disposition existed on either side.

When Seymour heard of General Dix's defiance, he ordered the district attorney to enforce the laws of the State regardless of the President's order. In this head-on collision between State and Federal authorities there could be, of course, only one outcome. Judge Russell admitted his helplessness in the face of superior force.

It is unnecessary for me . . . to rehearse the facts of the case. The defendants . . . place themselves under the protection of . . . the Act of Congress of March 3, 1863 . . . If that provision is constitutional, it assimilates the President of the United States . . . to an absolute monarch . . .⁴⁶

This closed the incident. Underneath the surface, however, the mutual antagonism between the Washington administration and the Democratic governor of New York kept burning furiously. As the November elections approached, Lincoln and Stanton showed that they had not forgotten Seymour's display of independence.

"The chief interest of the whole country [in the November 1864 elections]," reported Blaine,⁴⁷ "centered in New York. As nearly as Mr. Lincoln was willing to regard a political contest as personal to himself, he . . . so regarded the contest between Mr. Seymour and Mr. Fenton [the Republican candidate]."

In the meantime, Governor Seymour had appointed Colonel Samuel North, a distinguished citizen and former magistrate of Otsego County, head of a commission which was to aid soldiers of his state who were in Washington. His assistants were Major Levi Cohn of Albany, an employee in the office of the Paymaster General of New York, and Lieutenant M. M. Jones of Utica, who had helped raise a company of volunteers and had

fought in the second battle of Bull Run. The appointment of this commission, one of whose duties it was to facilitate the collection of the Democratic soldiers' votes, was in conformity with a recently passed New York State law. The Republicans made similar arrangements for the benefit of their party. A Washington office was opened for the State of New York, and Colonel North with his men entered upon their duties.

On October 27, 1865, a few days before the Presidential election, the War Department suddenly issued an order for the arrest of the three New York State commissioners and the seizure of all papers at the agency and at their homes, including their private correspondence. They were thrown into prison, without being informed of the charges against them, as was the custom in all such cases. When Governor Seymour heard of this outrage, he appointed three prominent citizens of New York to investigate. They found the commissioners in Carroll prison, where they had been "confined together in one room, and had not been permitted to leave it for a moment during the four days they had been prisoners, even for the purpose of answering the calls of nature. . . . They had no vessel out of which to drink water, except the one furnished them for . . . urination. They had but one chair, . . . had not been permitted to see a newspaper, and were ignorant of the cause of their arrest. All communications between them and the outer world had been denied them . . ." ⁴⁸

When the accused were arraigned, the course of events foreshadowed the proceedings that were to disgrace the annals of American jurisprudence at the conspiracy trial a few months later. The plea that the military court had no jurisdiction was denied and so was the request for separate trials. Perjured evidence was introduced, and witnesses for the defense were excluded on the flimsiest excuses.

Colonel John A. Foster, who was to act as a special investi-

gator for the War Department after Lincoln's assassination, took a leading part in this case, and if the historian of the Association of State Prisoners is to be relied upon,⁴⁹ Foster was highly efficient in his ruthlessness. Accompanied by a stenographer, he visited Jones, one of the three defendants, in his cell and then had his supposedly sworn confession read in court. But the defense forced the stenographer to produce his original notes and, when they were translated, it was discovered that they had been altered. Letters and papers found in the office of the agency were admitted as evidence, although they were not in the handwriting of the accused, nor proven to have been in their possession. In spite of all these underhanded tactics on the part of the government, the defendants were found *not guilty*, after a trial lasting two months. *But they were not discharged from prison.* North was retained for nineteen⁵⁰ and Cohn for thirty-two days after they had been acquitted.

It was then that the long-delayed storm broke.

"In this condition of affairs," related ex-Congressman Riddle, "a statement concerning the prisons, with many details, was sent to the Military Committee, which so startled the generals at its head, that they went to the prisons and made a personal inquiry. They saw several of the prisoners and heard their stories, which excited their surprise and indignation."⁵¹

"The Military Committee of the House," wrote the *New York Times* on January 19, 1865, "made, this morning, a personal inspection of the Old Capitol Prison", and found that officers, even of high rank and having honorable scars, were and had been confined for months, without charges preferred against them. In some instances they were totally ignorant of the causes for their incarceration. It appeared that the commitments were generally signed by L. C. Baker.

General Garfield offered a resolution in the House demanding an inquiry. It was adopted and the Military Committee directed

to make the investigation. At last the lid was about to be lifted. But Stanton's friends were wide awake. On the day following the introduction of his resolution, Garfield was detained from the House at its opening, and Thaddeus Stevens used this opportunity to denounce the "young man" from Ohio for needless and mischievous meddling with the management of the War Office.

Unexpectedly, Garfield arrived at this moment. He immediately rose to reply and stated to the House the results of his personal inquiry. He related in indignant terms the outrages that had been perpetrated upon Union men, and finally denounced the "great Secretary of War" as worthy of impeachment. The effect was electrical. Stanton quickly directed that in the future no one in the military service of the United States should be committed to the Old Capitol prison except upon his personal order. Other reforms in the administration of the establishment were promised.⁵² Riddle adds that "there was an immediate emptying of the prisons, which rendered the inquiry useless. The daring of the young tribune in thus bearding the terrible Secretary won the admiration of all men, and especially of Mr. Stanton himself . . ." ⁵³

Stanton's admiration, it is safe to say, was nothing but his customary cowing before an antagonist who could not be bullied.

Congressman John N. Kasson, who also took credit for striking this blow for the inmates of the military prisons, reported the effect of this unwelcome publicity in a similar manner.

"I think it was on the following night," he wrote, "that a numerous and, it was said, a general gaol delivery was made; and rumor had it that the men were carried away in carriages, under promise to make no further complaint. At all events, it was the end of the system of arbitrary and causeless arrests. Messages and letters from far and near came to me, with thanks for my arraignment of the Secretary's action, and giving in-

stances which showed that there was, in Washington especially, a reign of moral terror . . .” ⁵⁴

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Shortly after the war the Old Capitol prison ceased to exist. A Washington resident wrote in 1869: ⁵⁵

Opposite the northeast angle of the Capitol Park, you will see a row of handsome dwelling-houses ornamented with Mansard roofs. They . . . until a short time ago, constituted a single building, known as the *Old Capitol*. . . a gloomier, more terrible-looking prison did not exist in the land.

. . . there can be no doubt that the old prison held many an innocent victim of political hostility and official malice. Many a good man, whose most earnest prayers were for the success of the Union arms, was immured within these walls in consequence of having offended some high official. We all know that there were many grave faults committed by the Administration during the Rebellion, not the least of which was its readiness to disregard the liberty and personal rights of the citizens of the Union. Stanton was an able and true man, and a good Secretary, but he was a despot also, and too hasty to arrest men upon very slight proof; and Mr. Seward was too fond of tinkling his “little bell.” Ex-Chief Detective Baker sent, perhaps, the majority of prisoners to this institution. He had reduced blackmailing and intimidation to a science, and those who would not comply with his unlawful demands were moderately sure of a residence in this place. These arbitrary acts are a blot upon the country, which ought never to have been cast upon it.

Now . . . the old building has disappeared . . . and been changed so that its longest inmate would not know it . . .

The building had disappeared, but the memory of the outrages it had witnessed lived on. “How much misery and injustice had been crowded within its walls will probably never be

known," said a well-posted observer. "The secret history of the Provost Marshal General's office at Washington, and its connection with the War Office . . . never can be written, perhaps never should be." ⁵⁶

Leaving one to speculate why not.

☆ X ☆

No one has yet written a history of the real Stanton. Great man though his admirers proclaimed him to have been, his once powerful figure has faded into the shadows of the past. The man who was said to have won the war for Lincoln has been forgotten by the man on the street.

Whether Stanton was a giant or a demon is still a matter of debate. Some day history should find the niche into which he properly belongs.

X

The Real Stanton

ONE MAN who knew Stanton well, both as an opponent and as an ally, was Congressman Albert Gallatin Riddle from Ohio. Elected in 1861 as a Republican from Stanton's home state, Riddle served as representative until 1863, when he settled down in Washington to the practice of law. When Cameron resigned his position as Secretary of War in 1862, Riddle was still in Congress. Neither he nor other members of his party were prepared for Stanton's appointment as Cameron's successor.

"We were all surprised by the name," he confessed; "few of us knew anything of him save as Mr. Buchanan's Attorney-General, and what he had really done in his Cabinet had not transpired . . ." ¹ Up to that time Stanton, it would appear, had found no opportunity to spread the story of his heroics against the ex-President, to whom he claimed to have delivered an ultimatum which had saved the honor of the nation. ²

Riddle was given to understand that Senator Wade, radical of all Radical Republicans, had sponsored Stanton's choice, although Stanton had been a Democrat all his life, while Wade was a fierce and relentless leader in the opposite camp.

"Wade answered for him to the Republicans," Senator Pearce of Maryland had told a group of his political friends at the time; ³ and Wade's endorsement had stifled all remonstrance.

According to Senator Fessenden, ⁴ later Secretary of the Treas-

ury, "The President astounded everybody . . . by sending in a nomination for Secretary of War in place of Mr. Cameron. I took the responsibility to have the matter of the confirmation laid over, as I was determined to know what it meant . . ." Fessenden was requested to confer with Secretary of the Treasury Chase, who assured the Senator that the responsibility for Stanton's selection lay with those who had urged the new man on the President. Fessenden then met Stanton. In a letter written at that time, the Senator declared, "We agree on every point: the duties of the Secretary of War, the conduct of the war, the negro question, and everything else."

As Lincoln's ideas on the arming of negroes at that time ran counter to those of Fessenden, Stanton must have known himself to be in opposition to his chief at the very moment he entered the Cabinet.

Soon Riddle had an opportunity to visit the new Secretary of War, whom he had known as a lawyer.

"He was alone," he recollected, "received me courteously, speaking in a low musical voice, which, as I was to observe, could be lower, softer, even sweet, under the excitement of anger; a round, compactly built, personable man, with short limbs, small hands and feet, thick neck, large round head, with black brows, and long, curling black hair, the lower face lost in a grizzly beard. His eyes were very striking—large and liquid like some women's, they were mysterious, to me seeming to have a message, and looking reproach that I did not understand it." ⁵

Riddle's first call was made in behalf of some of his constituents to whom certain promises had been made by Stanton's predecessor. Riddle now looked for the fulfillment of these promises by the new incumbent; but this favor was flatly and ungraciously refused. Thereupon Riddle remarked quietly that these were the only things he had asked for, and bowed himself out.

"I permit no man to address me in such language," said Stanton in his sweetest and most exasperating tone of voice.

"Mr. Secretary," replied Riddle, "permit me to retire, and with *final leave*." ⁶

Riddle did not know then that such manly behavior would invariably kindle respect, if not fear, in the heart of the ferocious-looking War Minister. Therefore he was greatly astonished when, calling at the War Office a few days later to obtain a furlough for a dying officer, and approaching Stanton without a bow, he was told that his protégé could have a leave of absence for thirty days instead of the requested twenty; he also received an apology for what had happened at the previous meeting.⁷

Although Riddle often found himself opposed to Stanton, he later became one of his most ardent admirers.

"Mr. Stanton was capable of arduous and long-continued work," he wrote of him,⁸ ". . . and his days and nights were given to it. He lived in the War Office, literally; his bed was there; his food was there; his presence in his own household was a rare event. He bravely assumed responsibility, leaving the President the full measure of praise . . ."

As a lawyer, Riddle was shocked at Stanton's total disregard for the Constitution. Speaking of the Secretary of War, Thaddeus Stevens and Senator Wade, he thought that, "Of these . . . men, . . . it may truly be said that they were the most revolutionary men . . . since the days of the Adamses and Jefferson. . . . no scruple of the written Constitution troubled either of them. The conservative notion of preserving the Constitution as . . . the thing not to be touched, always and justly provoked their derision."⁹ Stanton believed that the Constitution was made for the country and not the country for the Constitution.

"When the country is gone," he remarked on one occasion, "it will be a comfort to know that *the Constitution is saved*."¹⁰

Riddle could never share this view, but he excused it on the

grounds that Stanton "was a primal force of nature, used to break up the old crust of the earth . . .

"I fancy him," he orated at a commemorative meeting in 1870, "in twilight solitude, by some sounding sea, quarrying a mountain and throwing up a giant's causeway in a single night."¹¹

When Riddle first started to practice law in Washington he often represented citizens who had been arrested without warrants. Trials of these unfortunates before military commissions instead of juries began to alarm him, and he therefore intervened with both Lincoln and Stanton to end these unconstitutional proceedings, which he at that time evidently could not yet condone by the vision of a primeval man quarrying mountains in the twilight.

Riddle had more than one interview with Stanton and the President and urged them to abandon this mode of dealing with offenders not connected with the military service. Mr. Lincoln, Riddle implies, had become shaky on the subject, but Stanton remained inflexible. "He ironically said that an abandonment of the military courts for the trial of civilians would diminish my revenues, and that I ought not to complain. . . ." ¹²

In spite of this jocular remark, Stanton may have been really worried about the financial status of a lawyer who had shown enough audacity to meet him boldly and who had even carried an argument over his head to the President himself. At any rate, Riddle soon found himself engaged on Stanton's side and was thereafter employed by the Secretary in many cases.¹³

Another man who had unusual opportunities for intimate observations of Secretary Stanton was Major (later General) William E. Doster, subsequently one of the defense lawyers at the conspiracy trial, but in 1862 and 1863 a provost marshal in Washington under General James S. Wadsworth, military governor of the District of Columbia and some adjoining territory.

Doster saw Stanton almost daily. His opinions are particularly valuable, for he was one of those rare witnesses who never loses his detached point of view. In his memoirs he apportions both compliments and censure with complete impartiality.

Doster describes Stanton as a broad-shouldered man, not more than five feet eight inches in height. He had a long brown beard, sprinkled with gray, and alert, although severe little eyes. His attitude at audiences, which he held at 10 a.m. and 3 p.m. for an hour each time, gave him the air of an irritable schoolmaster to whom his pupils came to ask favors. He would lean his arm on his desk, adjust his spectacles, and resign himself to the necessity of people coming to state their business. He was "a peppery little man who looked as though he had not slept well, and as if it would not give him much pain to refuse your most urgent request."¹⁴

The orderly at the door seemed to anticipate the visitor's looks of disappointment, just as Stanton himself was fully prepared to refuse all requests put before him. Doster continues:¹⁵

"Influential" people tried their influence only once, acquaintances of the bar tried it and were rebuffed, corrupt people found themselves suspected before they drew near. Women in tears, venerable old men, approached slowly—but withdrew quickly as if they had touched hot iron. A few got what they wanted and earned it in the getting.

Certainly the Secretary's facility in saying "no" was extraordinary.

Without searching far or deep, I think it was observable that his habit of mind was self-willed and inclined to oppose suggestions and propositions principally because they were not his own.

But at bottom there was nothing terrible. Stanton was an able, overworked Pittsburgh lawyer, suddenly called on to play the combined roles of Carnot and Fouché, apparently utterly ignorant of

both roles, and equipped with no special talent or habits other than the professional ones—ability to work, dogmatic temper, a bullying propensity.

Doster infers that Stanton's blustering toward the wealthier class of secessionists was founded on the belief that "contempt pierces even through the shell of the tortoise," and that the reserve of aristocratic scorn with which Southerners were wont to treat their adversaries could best be broken by brutal arrogance. The army treated its foes as equals, but Stanton's rough handling was designed to undermine all notions of social superiority.¹⁶

It was an altogether different Stanton whom one of the War Minister's intimates, Judge Donn Piatt, had known as a young man. Then he had been joyous and his hearty laugh had won him many friends. At that time Stanton was writing a book, "The Poetry of the Bible". The work was never completed, but a certain dreaminess remained in Stanton forever after.¹⁷ A young girl, who was a frequent visitor at his house, said that he would often relax on Sunday afternoons and read poetry to her.¹⁸

A few incidents of Stanton's college life at Gambier, Ohio, have been preserved by one of his teachers, the Rev. Heman Dyer, whose friendship for his former pupil was destined to endure through life.

"Stanton was young, bright, and ever ready for fun and frolic," he wrote, and illustrated this remark by telling how the young student had once borrowed the principal's horse for a night ride, while on another occasion he had led his comrades in a rather brutal assault on a tutor who had made himself unpopular by betraying confidences.

Dyer's comment was, that "This was a marked trait in Mr. Stanton's character, and no doubt had much to do in shaping his future career . . . He was determined that the offender should be

punished, law or no law, and was willing to suffer the consequences. . . . His innate sense of justice made him restive under the restraints of the forms of law." Dyer also remembered that Stanton had "a slight lisp, but not enough to detract . . . from the effectiveness of his speaking."¹⁹

Doster was convinced that the Secretary of War was a coward at heart. When Stonewall Jackson was marching up the valley of the Shenandoah in 1862, General Wadsworth told his subordinate that "Stanton, from whose office he just came, was as frightened as an old woman . . ." ²⁰

Doster's own experiences tended to bear out this opinion. One day, a Pennsylvania butcher, "wealthy and fat, came to Washington to bring his two sons and other boys blankets, to replace those they had lost in the battle of Fredericksburg. As he was an acquaintance of mine I went with him to Stanton and found the thing was impossible under the orders, which were imperative against transportation of citizens.

"Nothing daunted, my friend pushed his way before the Secretary and finally in a rough way stated his case. The Secretary refused his request and passed on to the next. 'Well,' said the butcher, 'How many sons have you got at Fredericksburg? I guess not many, or you wouldn't want to freeze mine.' The pass was granted."²¹

There was another queer story afloat at that time, Doster related.

A lieutenant of a cavalry regiment, stationed at Alexandria, received a dispatch announcing the death of a near relative and requesting him to come home. As the routine of red-tape was too slow for his case, he hastened to the War Department, where he encountered Mr. Stanton and humbly stated his case. Upon this Mr. Stanton without ceremony pushed him by the shoulders out of the door. The lieutenant in despair hurried to Willard's, got pretty

drunk, mounted his horse, and galloped wildly about on the road between Washington and Alexandria.

The same afternoon the Secretary rode out in a carriage, unattended except by the driver. He drove along the river road, where the outraged lieutenant was likewise. The latter, catching sight of the man who was the cause of his trouble, galloped alongside, and saying, "Aha! now it's my turn," grabbed Stanton by the beard, shook him, and let him drop. The story went farther,—it was stated that the Minister, afraid of publicity, let the affair pass over unnoticed.²²

More likely than not, Stanton was scared into a mortal funk by this bold attack. Even in later years fear of bodily harm remained one of Stanton's characteristics. When President Johnson discharged him in 1867, he barricaded himself in the War Department, and Senator John M. Thayer of Nebraska decided to spend the first night with him.

They settled down for the night, each on one of the two lounges in the office. Thayer had just dropped off into a light sleep, when he felt a hand on his shoulder, giving him a gentle shake. Jumping up, he found the Secretary standing beside him.

"Senator," Stanton said nervously, "I believe the troops are coming to put me out." They could distinctly hear the tramp of soldiers approaching from the direction of the White House. It proved a false alarm; nevertheless, Stanton's physical and moral courage had been in danger of imminent collapse.²³

Intimate glimpses of Stanton's character may be gleaned in the recollections of Gideon Welles, one of his Cabinet colleagues, and Charles F. Benjamin, one of his confidential clerks.

Benjamin shared Doster's opinion at least in one respect: his chief, he thought, was a lawyer, first and last. The prevailing opinion that Lincoln permitted Stanton to treat him contemptuously was largely discounted by this former subordinate, and he

related an incident to illustrate his point. At one time Stanton sent a document to the President for countersignature. Stanton's own name appeared at the foot of the instrument, but there was hardly enough room provided for Lincoln's endorsement.

"Take the paper back to the Secretary of War," the Chief Executive told the messenger, "... and say that the President will promptly sign any *proper* commission that may be sent to him . . ." ²⁴

Stanton was a reckless spender, so far as government expenditures were concerned, Benjamin recalled. General Halleck warned the Secretary "that the excessive number of paymasters, quartermasters, [and] commissaries . . . was an administrative calamity, apart from the useless expense, which was not his concern. The chiefs of bureaus protested that outstanding contracts for the favorite articles of supply ran far ahead of the public necessity. . . . the expenses of the Government were at the rate of one and a half million dollars per day," according to the Treasury Department; loans were stagnant, and the banks were alarmed at the amount of government bonds they were carrying. The expense for the troops in the field was unavoidable, but the multitude of establishments in the rear rivaled in numbers the actual fighting men in the whole army.²⁵

To all protestations Stanton remained indifferent. A reduction of expenditures at that time might have had undesirable repercussions at the approaching elections and was therefore not to be thought of.

Gideon Welles, who disliked and distrusted his colleague, reports an episode that took place in August, 1865, which also emphasizes Stanton's disregard for the state of the national treasury and shows, besides, his peculiar propensity for double-dealing.²⁶ At a Cabinet meeting the War Minister declared casually that twenty-two thousand men were moving into the Indian country, and that the expenses of the movement could not be

less than fifty million dollars. When asked for details, he curtly remarked that he knew nothing on the subject and that Grant, who had been asked for information, was away. The country, it seemed, was on the verge of a war, and the Secretary of War had no knowledge thereof.

Two days later, word was received from the General-in-Chief. To everyone's surprise, General Grant said he had not ordered any such movement. Stanton also again pleaded absolute ignorance.

"This whole thing is a discredit to the War Department," wrote Welles.

A few days later Stanton stated to the Cabinet that the force had been reduced to six thousand men.

"This whole proceeding is anything but commendable in the War Department," Welles recorded in his diary. "Stanton professes not to have been informed on the subject, and yet takes credit for doing something in the direction of reduction. . . . An army of twenty-two thousand and a winter campaign, which he said would cost certainly not less than fifty million and very likely eighty or one hundred million, are arranged, a great Indian war is upon us, but the Secretary of War is, or professes to be, wholly ignorant in regard to it . . . If Stanton is as ignorant as he professes, it is disgraceful and ominous, and it is not less so if he is not ignorant. There are some things which make me suspicious that he is not as uninformed and ignorant as he pretends. This matter of supplies, so ruinously expensive, is popular on the frontiers . . . I have seen enough of Stanton to know that he is reckless of the public money in fortifying himself personally. . . ."

Yet, in spite of Stanton's profligate handling of public funds, no one ever accused him of corruption. While he was at its head, the War Department remained the one bright spot in a

great picture of financial debauchery. Not a breath of scandal ever reached a cynical public that matters under Stanton's regime were not handled in accordance with the strictest rules of honesty. Whatever were the shortcomings of the War Minister, financial trickery was not one of them. When he left his post, he was, according to Benjamin, "a beggar not only in health but in fortune; even the one dwelling that he possessed was heavily mortgaged, and so continued till his death brought the true state of his affairs to light. . . ." ²⁷

Stanton never was popular with the army, although military discipline naturally forbade a display of its feelings. Nevertheless, an occasional line in the conservative *Army and Navy Journal* betrayed the underlying sentiments of the officers. On August 13, 1864, this publication wrote daringly:

Mr. Secretary Stanton has gratified the country by resuming the publication of his dispatches to General Dix, the opportunity for proclaiming reports of successful achievements inviting him to again appear on the bulletin boards. Are we to understand from this that the amiable Secretary is unwilling to be the bearer of evil tidings? Are we always to associate his name with the joyful news of victory, and never with the dismal story of defeat?

An incident which illustrates Stanton's character was reported to the *New York Times* on October 14, 1883, under the heading *A Bit of Secret History*.

The *Times* dispatch was in the form of an interview with one Rev. William John Hamilton, who had been one of the priests admitted to the Confederate military prison at Andersonville, Georgia. The treatment of the Union soldiers incarcerated there had given rise to a flood of atrocity stories, some of which, so Father Hamilton felt, were vastly exaggerated. At the head of the prison had been a man named Wirz who was seized, tried, convicted and hanged as soon as victory had been won.

Father Hamilton had intervened in behalf of Wirz who, he said, "was the most humane keeper of a prison he ever met." Wirz was dying from an incurable disease, and requested that his sentence be set several months ahead, so that he might die a natural death. Father Hamilton laid Wirz's request before Stanton, who "thought favorably of it and said he thought the rest of the Cabinet would have no hesitancy in accepting it." After the Cabinet meeting, Stanton reported that the other members had refused to listen to any such proposition. They had said that "the people of the North demand the blood of someone for the cruelties practiced at Andersonville. Wirz has only two months to live. Let's take this man and shed his blood and by doing so we spare the life of a better man."

A short time after Wirz had been hanged, Father Hamilton met President Johnson. He inquired why the Cabinet had not favored the appeal for mercy sponsored by Secretary Stanton. "What!" Johnson exclaimed in surprise. "Stanton in favor of the proposition? Why, Stanton was the only member of the Cabinet opposed to it. The rest of the Cabinet favored it and was about to accept it, when Stanton threatened to resign if the proposition was entertained for a moment."

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That Stanton did not die a natural death, but committed suicide by cutting his throat has been asserted over and over again. Although denied by his friends with indignation and force, the rumor would not down and is still accepted as fact in many quarters. Even such a cautious historian as David DeWitt hinted at something unusual. "Stanton slinks mysteriously into the shadow of death . . .,"²⁸ he wrote, leaving the remainder to conjecture. One account had it that the undertakers, left alone with the corpse of the War Minister for a few moments, dis-

covered his neck to be plastered over with tape, meant to hide an ugly cut that reached from ear to ear.

"There are many at Washington who believe that Mr. Stanton committed suicide by cutting his throat with a razor," wrote the journalist Ben Perley Poore in his *Reminiscences*.²⁹ "Caleb Cushing [a prominent Democrat] was positive that he did, and investigated the matter so far as he could, but Hon. E. D. McPherson, of Pennsylvania, for years the efficient clerk of the House of Representatives, procured from the attendant physician a statement that it was not so . . ."

Against these scurrilous tales Stanton's family and entourage maintained an attitude of dignified silence; but when the Confederate General Richard Taylor, in 1879, revived the report in his book *Destruction and Reconstruction*, one of the messengers of the War Department came to his late master's defense.³⁰

"For the first time . . . a permanent character and a responsible name have been lent to a story that found utterance in some obscure newspapers, shortly after his [Stanton's] death, that he had committed suicide, and that the fact had been carefully concealed from the public," he stated by way of explanation. In an affidavit he then affirmed his conviction that the idea of suicide was preposterous.

This messenger, William S. Dupee, had been with Stanton a great deal during his last illness, and after Lincoln's War Chief had passed away, Dupee shaved the throat and face while the body was still warm. There were no marks of violence on the corpse.

". . . affiant had much intercourse with the family servants," Dupee added, "and never saw or heard anything to lend countenance to the story of Mr. Stanton's death by suicide, and when the story first made its appearance . . . it was the subject of mingled indignation and ridicule among those who had been about Mr. Stanton at the time of his death."³¹

One David Jones came forth at the same time to corroborate Dupee. Jones had been a waiter in the Stanton family and in constant attendance on the dying man until his last hour. During the last days, he testified, the patient had never been left alone, day or night. At last Doctor Starkey, a minister of the Episcopal church, was summoned and spoke to Stanton until he died half an hour later. Jones was rubbing the dying man when the end came; he then assisted in dressing and preparing the body and was positive that there were no marks of violence anywhere.³²

Finally, Dr. Joseph K. Barnes, chief surgeon of the United States Army, entered a solemn protest. He related that Stanton had been a victim of asthma in a very severe form for many years and was completely broken down in health when he retired from the War Department. In November of 1869, "the 'dropsy of cardiac disease' manifested itself," and on the night of December 23 the dropsical effusion into the pericardium had increased to such an extent that the Reverend Doctor Starkey was called to read the service; the clergyman, Mrs. Stanton, Mr. E. L. Stanton, the three younger children, a governess, Doctor Barnes and several servants were then in attendance until he died, at 4 a.m., December 24.

"It is incomprehensible to me," Doctor Barnes concluded, "how any suspicion or report of suicide could have originated, except through sheer and intentional malice . . . I do most emphatically and unequivocally assert that there is not any foundation whatever for the report that Mr. Edwin M. Stanton died from other than natural causes, or that he attempted or committed suicide."³³

Adjutant General Townsend had watched by the body of his dead chief the entire night following his death, and thought that he could not have failed to know if there had been anything wrong. Townsend also was convinced that Stanton's religious convictions would have stood as a barrier to suicide.³⁴

Stanton had been in the habit of treating his subordinates in the War Department brusquely, driving them with merciless energy at all times. Overworked, nervous from lack of sleep, he could hardly have been an easy taskmaster at his home. Nevertheless, not one of those who had known him intimately seemed to bear him any ill will, either during his lifetime or after his death. Most men who wrote about him in later years remembered him with a good deal of affection, and their kind words throw a soft glow over this, one of the strangest figures in American history.³⁵

☆ XII ☆

MRS. Surratt's younger son John, whom the War Department believed to be deeply involved in the assassination plot, and whose capture should have been ardently sought, escaped to Canada. After hiding there for five months, he took a boat to Europe and landed at Liverpool in September, 1865. His arrival was quickly made known to the American government, but no steps were taken to have him arrested. Surratt drifted to London and later to the continent. There his presence was so forcibly brought to the attention of the American authorities that it could be no longer ignored, and efforts were made to have him brought back to the United States for trial.

Therewith began one of the most curious stories which ever wound its way through the dry archives of the State Department and which, in the course of time, was to attract the attention of the entire world.

XII

The Queer Adventures of John H. Surratt

ON THE 21ST of April, 1866, General Rufus King, the American minister to the Pope,¹ received an unexpected caller. He was a Papal Zouave named Henry B. Sainte-Marie, a native of Maryland, and he imparted to the representative of the American government the startling information that he had discovered the whereabouts of John Harrison Surratt, the only one of the alleged conspirators against Lincoln's life then still at large. After the assassination Surratt, whose intimacy with Booth was a matter of common knowledge and whose mother had been hanged for her assumed part in the plot, had completely disappeared from public view, and although the War Department had offered a reward of \$25,000 for his apprehension, there was no record of tangible results. Now Sainte-Marie suddenly reported that he had located the fugitive. Surratt, it appeared, had entered the Pope's military service some time before under the name of Watson; he was then in one of the Zouave regiments near Rome and, so General King was told, could be seized at any moment.

"My informant said," the United States minister wrote to Secretary of State Seward, "that he had known Surratt in America, that he recognized him as soon as he saw him . . . and that Surratt . . . admitted . . . he was right . . ." ²

Sainte-Marie had expressed himself in so positive a manner that General King could not doubt the truth of what he had heard.

"As to the identity of the party," a subsequent letter of the informer stated, "I can assure you on my most sacred honor it is lost time to acquire further proofs. . . . I have known him in Baltimore. I . . . have spoken to him . . . He related several particulars . . . which no one but himself could have remembered. . . ." In another communication Sainte-Marie hoped that everything would turn out to the greatest advantage for the United States and prayed that "justice to the ever lamented memory of President L[incoln]. will be made."³

Sainte-Marie had spoken the truth. He had really found Surratt, whose features readily impressed themselves on those who met him, and who was therefore easily identified. When Sainte-Marie later returned to the United States to bear witness against his former friend, he told a reporter for the *New York Times*⁴ that he had "made the acquaintance of Surratt . . . and although the acquaintance at no time attained to intimacy, he was struck with certain physical peculiarities that no disguise could affect. . . ."

It was after Sainte-Marie had joined the Pope's guards that he had come in contact with Surratt, who approached him and asked if he was not an American.

He replied that he was, and said in a whisper: "You remind me of an American named Surratt; are you he?"

"Oh, no," replied Surratt.

"All the better for you," rejoined Sainte-Marie.

Subsequently, when excited with wine, Surratt had admitted his identity; at various times, so Sainte-Marie alleged, Surratt had indulged in braggadocio concerning the Canadian raids, the assassination plot, and other matters, greatly to the astonishment and delight of his associates, many of whom were Confederate refugees like himself.

Surratt was quickly located. He was garrisoned at Veroli,⁵ a small town within the Pope's domain, about fifty miles southeast of Rome, and Cardinal Antonelli made it plain to King that "if the American government desired the surrender of the criminal there would be no difficulty in the way."⁶

But on November 6, while negotiations regarding Surratt's extradition were still pending, the Papal authorities suddenly ordered his arrest of their own accord.⁷ The next day this order was executed, and apparently great precautions were taken to prevent the escape of the accused.

Two sentinels with loaded arms were stationed to guard him. One was at the very door of his cell, to prevent any communication of the prisoner with the outside world; the other was at the door of the barracks. The prison doors and windows had been inspected down to the minutest detail by a competent locksmith. At 4 o'clock in the morning Surratt was awakened. He rose, put on his uniform and drank his coffee "with a calmness and phlegm quite English," as the official report expressed it.

The prison was built on a high hill, and the gate opened upon a platform which overlooked the country. A balustrade had been built to prevent promenaders from tumbling to the rocks below. At the side of the prison stood the privies of the barracks. Surratt, who now went under the name of Watson, asked permission to stop there, and the guards, who saw nothing unnatural in this request, granted it. Surratt, quiet and resigned hitherto, suddenly vaulted the balustrade, jumped into the void and reached the depths of the valley below, without serious injury. Patrols were immediately organized, but in vain.⁸ De Lambilly, the commander at Veroli, stood aghast at this apparent miracle. Nor was he the only one.

"I am assured that the escape of Watson [Surratt] savors of a prodigy," wrote Allet, the lieutenant colonel of the battalion, to the Papal Minister of War.⁹ He had good reason to think so, for

according to his estimate the distance which Surratt had jumped was more than a hundred feet.¹⁰ To the indignant General King the details of the story appeared almost incredible, and when the news reached America, some enterprising journalist even supplied the theory that "two men with an outstretched blanket broke the fall," but cautioned his readers that he could not vouch for the truth of his yarn.¹¹

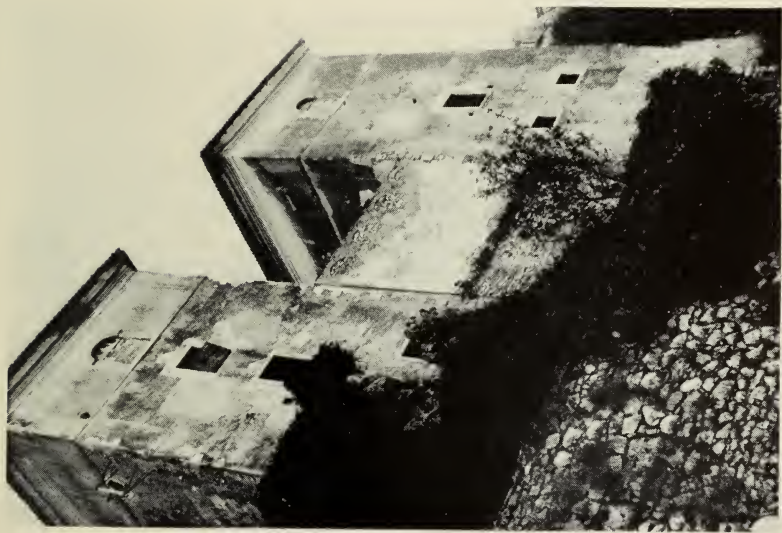
In reality, the reason for Surratt's escape from death or serious injury was of a far more prosaic nature. Twenty-three feet below the balustrade was a narrow protruding rock, on which the filth from the barracks had accumulated. It was on this that the prisoner's fall had been broken.

"Had he leaped a little further he would have fallen into an abyss," Lieutenant Colonel Allet concluded.

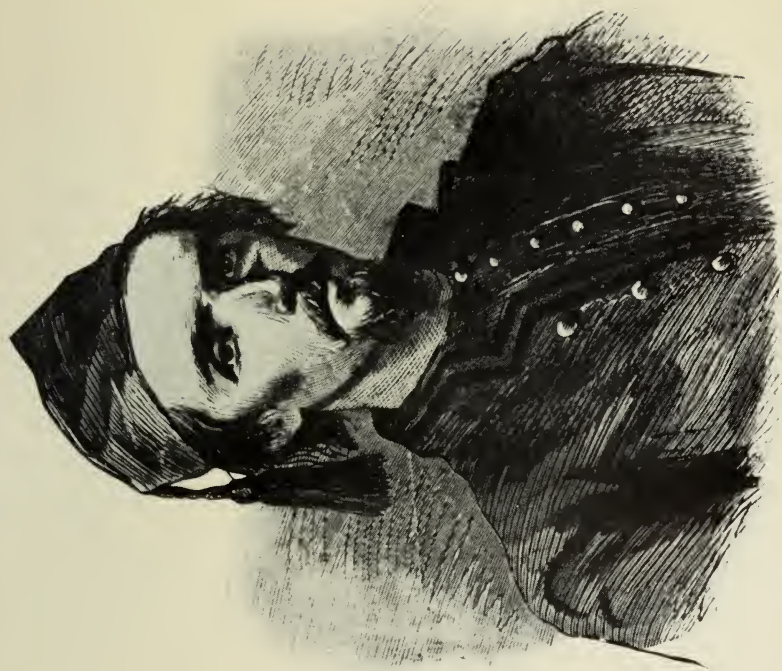
General King, reviewing the events, seemed to be disturbed by conflicting ideas. Writing to Secretary Seward on November 19, he said: "Some surprise perhaps may be expressed that Surratt was arrested by the Papal authorities, before any request to that effect had been made by the American government." Then he added, evidently as a somewhat dubious afterthought, "I have no reason to doubt the entire good faith of the Papal government in the matter."¹²

All was not yet lost, the American minister hoped. Surratt was in his brilliantly-colored Zouave dress, and there was a good chance that he would be recaptured.

Within five minutes of Surratt's leap, at least fifty soldiers were engaged in pursuing him.¹³ Veroli was about twenty-eight miles from Isoletta, the frontier station to Italy, which distance had to be traversed on foot by a badly shaken and bruised man, easily recognizable. His description had been duly spread abroad, and the bright uniform of the Pope's guards—red fez, blue pants, red trimmings, blue jacket and white gaiters—¹⁴ would surely make him an easy mark for his pursuers.



The barracks at Veroli, Italy (1939). In 1867, when John H. Surratt jumped into the abyss below, the two towers were not connected by a wall but by a low balustrade.



JOHN H. SURRATT, sketched by an artist of Harper's *Weekly* shortly after his arrival in Washington in 1867.

"On the surface," King reported, the Pope's officers "... certainly show . . . perfect good faith . . . and an earnest desire to arrest the criminal . . ." ¹⁵

Nevertheless, the American minister determined not to depend entirely on the Papal authorities. Assuming that Surratt would cross into Neapolitan territory, he took proper counter-measures. He sent a trusted agent, Robert Macpherson, to Mr. Marsh, the United States minister to Italy, in order to invoke the assistance of the Italian government in intercepting the fugitive at Naples, to which place he was logically bound. But Surratt's luck still held. Macpherson went to Leghorn, where he thought the Italian minister was sojourning, ignorant of the fact that Mr. Marsh had left for Venice. King's papers were therefore not delivered until November 13, five days after Surratt's escape. Mr. Marsh then lost no time in visiting the Ministry of Foreign Affairs, but was told that the suspect would be surrendered only under the condition that the death penalty should not be inflicted on him.

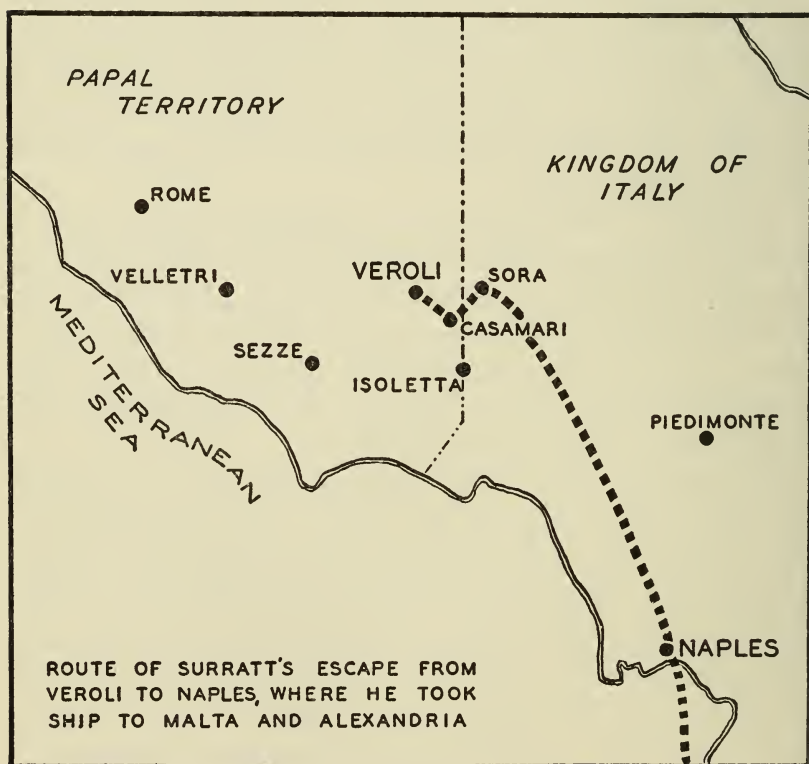
"Having no instructions on the subject," Marsh wrote to Seward, "knowing nothing of those which Mr. King might have received, and having, moreover, at that time no reason to suppose that Surratt had escaped into the territory of the King of Italy, I did not pursue the discussion further." ¹⁶ With which complacent reflection the minister rested, contented in the thought that he had done his full duty.

His colleague Rufus King, however, was far from satisfied. He sent confidential dispatches with his friend Macpherson to Marsh at Florence, "under very peculiar circumstances." King's insistence and manifest distrust of the mails prodded the minister at Florence into further action. On November 16 he sent a note to the foreign office, and when he received no reply, he called in person there next morning, only to find that the "ministry of grace and justice . . . had not come to decision on the subject."

The secretary of the foreign office seemed "less favorably disposed to the application" than Marsh had expected from previous conversations.¹⁷

In the meantime, news had been received that Surratt was at a hospital in Sora, outside the Pope's sovereignty, and Mr. Marsh requested that the local authorities at Sora be instructed to hold Surratt in safe custody, until further and more definite proceedings could be undertaken to insure his surrender.¹⁸

This report had first come to Mr. King directly from General Kauster, the Papal Minister of War, and Mr. Marsh had been at once advised by telegram. Sora was only a few miles from the frontier and about one hundred miles from Naples.¹⁹ Suspicious



and enraged at the languid manner in which this affair was being handled, and relying now only on his own intimates, General King sent his acting secretary to Sora, which was really outside the territory to which he was accredited. King's representative was equipped with all the necessary documents and a photograph of Surratt, and had instructions, if he found the suspect there, to ask that he be kept in close confinement. Arriving at Isoletta, the secretary telegraphed to the commanding officer at Sora. Now it developed that the Papal authorities had not been quite correct in their information. Surratt was not in the hospital, as had been asserted, although he had passed through Sora on the 8th of November, the day of his escape, on his way to Naples. Going perhaps slightly beyond his official jurisdiction, King's delegate spurned an appeal to the United States minister at Florence and, acting on his own responsibility, wired the intelligence directly to the American consul at Naples, at the same time persuading the officer in charge at Isoletta to notify the Neapolitan chief of police.²⁰

"Our hopes were strong," Mr. King wrote on the 19th, ". . . that we should succeed in catching him [Surratt] somewhere in the vicinity of Naples."²¹

Unfortunately, it was then too late. Surratt had left for Alexandria two days before, November 17, aboard the steamer *Tripoli*, a British ship on which he could feel reasonably safe. But a new trap to catch the fleeing conspirator was in the making. The consul at Naples had ascertained that the *Tripoli* was scheduled to stop at Malta for coal, and had wired an alarm to William Winthrop, the American consul at that Mediterranean island.

Throughout these trying days, Surratt had worn his conspicuous Zouave uniform. There should have been no difficulty in picking him out in any crowd; and the escaped prisoner made no effort to disguise himself. All he had done was to change his

name to Walters when he embarked as a passenger on the boat to Egypt.

When the *Tripoli* hove in sight of Malta, Consul Winthrop made strenuous efforts to have Surratt arrested. But the British governor showed little interest and was not to be hurried.

"Notwithstanding, I pressed for an immediate answer," Winthrop reported, "both in my public despatch and by a private note, still it did not reach me until 4 p.m., when the steamer *Tripoli* was ready to leave for Alexandria; and then, as I think, owing to literal quibbling, my request was not granted. This was most annoying . . . It was most unfortunate that the *Tripoli* came in with fifteen days' quarantine, which absolutely prevented me from having the least communication with the vessel . . ." ²²

The assassination of a President was a political crime, and the Governor of Malta was not certain that Surratt should be surrendered. In Naples he had passed himself off as a Canadian, and it was through the influence of the British consul, and with his financial assistance, that he had been taken aboard the *Tripoli*. This made the issue still more complicated. When the boat went into quarantine at Malta, a dense fog prevented her from coming close to shore and so solved the diplomatic problem. Before the governor of the island was forced to act decisively, Surratt was on his way again.

But Rufus King was not so easily defeated. On November 20, he asked Mr. Winthrop at Malta to wire the American consul at Alexandria.²³ Once more, though, fate intervened for the fugitive. The telegraph company reported that the cable between Malta and Alexandria was broken. On the receipt of this distressing information, Winthrop at once sent a dispatch to the Consul General of Egypt, using the cable service via Constantinople. He had been told that in this manner his advice would reach Alexandria at least twenty-four hours before the arrival of

the *Tripoli*. Besides, a letter to the Egyptian consul, Mr. Hale, was sent by Winthrop through the agents of the steamship company, which letter was to be delivered before the landing of the passengers. Mr. Hale had full extraterritorial judicial powers, and nothing now stood in the way of Surratt's capture.

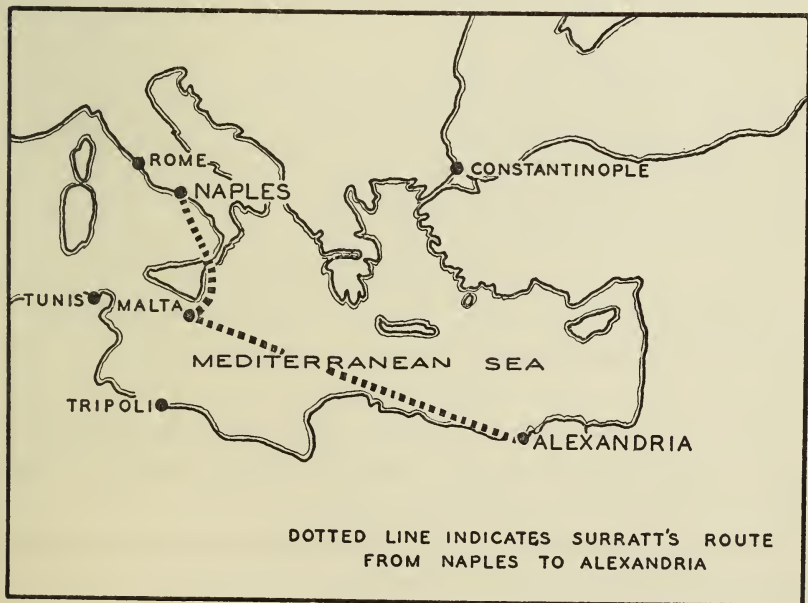
On the 27th of November, 1866, Surratt was arrested. Shortly afterward he was sent back to his native land on board the United States steam corvette *Swatara*.²⁴

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The events culminating in Surratt's seizure undoubtedly form a series of grotesque pictures. First, he was arrested before his detention was called for by the American authorities. Next, he leaped from a precipice and suffered only a bruised back and a slightly injured arm,²⁵ not serious enough to slow up his flight.



At least fifty soldiers were all around the abyss, but they did not catch him. In the garish uniform of a Zouave he then marched undiscovered some twenty miles to the frontier. His pursuers did not catch up with him, although his destination was obvious, and a peasant had reported seeing him near Casa Mari on his way to Italian territory.

Arriving at Naples, he actually asked the police to shelter him, and for three days slept in their station as a nonpaying guest. He had no passport, and only twelve scudi (about twelve dollars), but this did not arouse the curiosity of the Neapolitan guards. The British consul took the fugitive's word for his alleged Canadian citizenship and was even influential in having some English gentlemen pay his passage on the boat.

The story then continued along an equally queer pattern. When the ship stopped at Malta, the American consul was advised that there was no one by the name of Walters aboard, and that he would not be allowed to make a personal investigation. He was told that there was a man in the uniform of a Zouave on the ship, but that his name was John Agostina, and that he was a native of Candia.²⁶ Yet, when the *Tripoli* was about to sail, and when it was too late for further action, additional information was furnished which indicated that this Zouave was Surratt after all, and that he was escaping again. All of which must have left the diligent Mr. Winthrop in a state of speechless fury.

"It was only yesterday afternoon," he reported to the State Department on November 22,²⁷ "that I heard this individual . . . hailed from Canada, and not 'Candia,' as stated in the . . . [official] note . . . it was a clerical error . . .

"Why . . . he [was not] . . . detained under a proper guard until he was about leaving the island, . . . I am wholly at a loss to know. . . ."

The American minister to Italy was no less chagrined, for he wrote on November 24:

My present impression, judging from my last interview with the secretary general of foreign affairs, is that the accused would not have been surrendered; and it would therefore be fortunate if he should be found in the Turkish empire . . .²⁸

A few days earlier, General King had written, "Surratt is apparently beyond the jurisdiction or *protection* of Rome, . . ." ²⁹ thus hinting discreetly that his confidence in the good faith of the Papal authorities had at last been shaken.

Surratt later gave an account of his miraculous escape in what purported to be the only interview he had ever granted, although, so it was said, over a thousand efforts had been made to secure one. The story appeared in the Baltimore correspondence of the *Kansas City Journal*,³⁰ and the reporter gave the assurance that the statement was Surratt's own, "word for word, as they left his mouth." Nevertheless, the narrative contains several inaccuracies which infringe on the truth, but not on the interest of the story.

Surratt remarked that his life among the Zouaves had been very pleasant, but that he had constantly longed for his far-away home. He had finally written to a prominent Union man that he was willing to surrender himself to the American authorities, provided he could get a jury trial. He had been advised, however, to stay away for at least three years.

Surratt averred that he had voluntarily determined to return and to take his chances of a court-martial, and had been on the point of doing so when he was arrested.

Surratt's subsequent actions did not exactly conform to these sentiments, for he had not hesitated to try an escape from the very fate he said he had courted. The reporter made it plain that it was escape and not suicide that Surratt had planned.

"It has been stated," Surratt was asked, "that when you broke

away . . . you made a wild jump over this precipice and landed, purely by accident, on that ledge. . . . didn't you know of . . . [its] existence . . . ?”

“Know of it!” exclaimed Surratt. “Why of course I knew of it! Do you think I would have been such an idiot as to jump over a hundred-foot precipice to certain death . . . ?” Many a time he and his comrades had looked at this ledge and estimated its distance from the top. When he did leap, his head struck the bare rock with such fearful force that he was knocked senseless. What happened afterward can only be explained on the assumption that the fugitive had many more friends among his comrades than even he himself knew.

He was brought back to his senses by the reports of rifles. Bullets were flattening themselves on the rock unpleasantly near his head. Dizzy, sick and unnerved, he managed to crawl out of danger, and gradually made his way down the side of the mountain to the little town that nestled at its base. Racing along the main street he ran directly into the arms of a detail of Zouaves. Surratt recalled that they were as much surprised as he, but that he had the advantage of being on the alert. He doubled quickly on his tracks, running like a frightened deer to elude his pursuers. By this time the entire town was in an uproar. Everyone had received the alarm and every gate was guarded. All of which did not prevent Surratt's escape. Selecting a good point, he managed to get over the wall and headed down the white Italian road towards the coast.

The idea that their quarry might have escaped over the wall seems not to have occurred to his pursuers, for he reached the Italian frontier, twenty odd miles away, unmolested.³¹ Here he ran straight into a camp of Garibaldians, whom the Zouaves were fighting. Introducing himself as an *Americano*, he was treated like a brother. He stayed with his former enemies for a week; they then supplied him with money and made it possible

for him to proceed to Naples in safety. Surratt told the reporter that, after landing at Alexandria, he had gone to a hotel, had registered under his own name, and had calmly awaited his arrest.

A paymaster of the United States Navy had a different recollection of the episode.³²

"Unfortunately for Surratt," he wrote, "Naples had had a visitation of cholera and was considered a foul port by the authorities of Alexandria, and all the third class passengers were marched to the quarantine station and placed under guard for a week's observation."

Unable to leave for the interior of Egypt, Surratt was helpless, and within a short time after his arrival he was arrested. The end of the chase was brought about with an entire lack of dramatic incidents.

"The telegram and some of the letters having been delayed in transmission," wrote the American consul at Alexandria,³³ "I was fortunate in finding the man still in quarantine among the third-class passengers, of whom there is no list whatever. It was easy to distinguish him among seventy-eight of these by his zouave uniform, and scarcely less easy by his almost unmistakable American type of countenance. I said at once to him, 'You are the man I want . . . What is your name?' He replied promptly, 'Walters.' I said, 'I believe your true name is Surratt'. . . The director of quarantine speedily arranged a sufficient escort of soldiers, by whom the prisoner was conducted to a safe place . . . Although the walk occupied several minutes, the prisoner, close at my side, made no remark whatever, displaying neither surprise nor irritation. . . . I gave him the usual magisterial caution that he was not obliged to say anything . . . He said, 'I have nothing to say. I want nothing but what is right.'"

On November 29 the prisoner's quarantine expired and he was taken into the custody of the local authorities. On December 21

the *Swatara* touched at Alexandria and took Surratt on board.³⁴ The man hunt had at last come to its long-delayed climax.

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There is reason to believe that fear of embarrassing political entanglements played an important part in the apparent unwillingness of all foreign diplomats to be found with Surratt on their hands. The Italian government did not wish to arouse resentment among its citizens by surrendering a foreigner to a country where capital punishment was still in vogue. The British authorities would have been forced to decide whether Surratt was subject to extradition under the existing treaty, and this might have proved troublesome.

"In point of fact," wrote the *London Times* on December 6, 1866, "it was actually asked . . . whether the murder of President Lincoln was or was not a 'political' crime . . . What was to be the treatment of a man whose offence was murder, but whose offending, nevertheless, was in its origin and circumstances entirely and purely political?"³⁵

A few days before, the representative of the British government at Malta had stated the case quite clearly.³⁶

. . . a conspiracy to commit murder is not one of the offences included [in the extradition treaty] . . . unless the murder intended, or an assault with intent to commit it, was actually perpetrated, so as to make the conspirator responsible as for murder or an assault with intent to commit murder. . . .

Without some evidence . . . that the man Walter or Watson is indeed Surratt, and connecting him with the murder of Mr. Lincoln as an accomplice, that man, if apprehended, would within a very short time be discharged, and might then bring an action of damages for unlawful arrest . . .

But the principal reason for the shifty attitude displayed by the European authorities was probably an act of the American government itself. Stanton had withdrawn the reward for Surratt on November 24, 1865, and no reason for this withdrawal had been given. Was the Washington government therefore really anxious to have the fugitive arrested? Or did the foreign diplomats, trained to read between the lines, interpret this step as a hint that he was no longer wanted?

Surratt himself certainly thought so.

"Now, as a matter of fact," he declared in his interview, "our government did not want me in the United States. They were willing and anxious for me to remain abroad and hoped I would continue to do so. While I was in London, Liverpool and Birmingham, our consuls at those ports knew who I was and advised our state department of my whereabouts, but nothing was done. Of course, when the matter was brought to the attention of the government in . . . an official manner, . . . there was nothing to do but express thanks and take measures for having me returned to this country for trial."

The indifference of the American government toward Surratt had been the subject of many serious debates while he was a fugitive, and had even occasioned an investigation by the Judiciary Committee of the House of Representatives. This report emerged in its final form much subdued in tone. The *Washington Daily Morning Chronicle*, on March 4, 1867, summarized the findings well, although its bias against President Johnson blinded its judgment.

That report says much, but suggests still more. It traces the course of John Surratt from a period shortly after the assassination of President Lincoln down to the time of his arrest, and shows a laxity on the part of the Executive which would be culpable enough if the humblest citizen had been murdered, but which was criminal under

the . . . circumstances . . . It appears that Surratt sailed from Canada in September 1865, and landed in Liverpool on the 27th of the same month; that the fact of his landing was communicated to Secretary Seward by the American vice consul, Mr. Wilding. No steps were taken by the President or Secretary of State to secure his arrest. No demand was made upon England for his return to this country, nor is there any evidence of the procurement or attempted procurement of an indictment against him. So remiss were the authorities of the United States that even this preliminary step to a demand for his extradition was neglected. Was there any reason for this lenience toward a man universally believed to have been an active participant in the most infamous and horrible crime ever perpetrated in America, a crime the full mystery of which still remains unfathomed, and the benefits of which are being reaped by the acting President of the United States? The committee may well express surprise that no agent or detective was sent to England to dog the foot-steps of the supposed assassin, to identify him if necessary, and secure his capture; for all of which it appears there was ample opportunity. Although our government officials were sufficiently well informed of his purpose to know that Surratt was going to Rome, no notice of the fact was given to our minister there, Mr. King. Was it desirable that he should escape the observation of Mr. King and rest secure from apprehension of arrest? If not, why was the order offering a reward for his capture revoked at the early date of November 24, 1865, less than six months after Mr. Lincoln's death?

Yet, after all, news of his presence in Rome did reach the ears of minister King. He was informed by another than the Secretary of State that Surratt was in the military service of the Pope, and communicated the fact by letter, dated August 8, 1866, to his department. Notwithstanding this, no steps were taken to identify or secure the arrest of the supposed conspirator and assassin up to October 16, 1866, when the rumors of his known presence in Rome had been rife long enough for everybody to have heard them; when public speakers had declaimed it from the stand, and charged re-

missness, if not connivance and guilt upon the officers of the Government of the United States.

. . . Did five short months suffice for the condemnation of Lincoln's murder? Was all the solicitude regarding the cause of it gone out of the hearts of the people? Was perseverance in the pursuit of his murderer exhausted in five months' time, or had money lost its charm as an inducement for the detection of crime that by November 24, 1865, the reward was withdrawn?

The facts are bad, and the world is censorious enough to believe that bad facts have a motive behind them.

Both facts and motives were now about to be delved into, so the *Boston Advertiser*³⁷ hoped. What did Surratt himself matter? "Offer him his life, his liberty, or any other price," so the paper advised, ". . . to obtain from his lips the information which will shed . . . light . . ."

☆ XII ☆

NONE of those accused of conspiracy against Lincoln's life had been allowed to speak in their defense or to give their versions of the assassination plot. Some of them had been executed, and their voices were stilled forever. Others, still living in 1867, were in solitary confinement on the Dry Tortugas, unable to answer the many questions which an entire nation was anxious to ask. But now Surratt, the only one of this group who had been at liberty, was being brought back a prisoner. At last the long silence would be broken. Breathlessly the American public waited for his arrival to learn the truth about the great tragedy—

XII

Storm Around Surratt

THE *Swatara* took on Surratt as its passenger on December 21, 1866, and orders were given to let no one communicate with him. Commander William N. Jeffers swore before a Congressional Investigating Committee on February 20, 1867, that he had given these orders on his own responsibility. Probably he remembered enough about the silencing of the defendants at the conspiracy trial to follow a parallel course. At any rate, he had no conversation with Surratt himself, and posted the following rules relative to the "State prisoner":¹

He is not to be allowed to converse with any person whatever. . . .

No person is to be permitted to converse within his hearing upon any other subject than ship's duties. . . .

The investigating committee, with Stanton's friend Boutwell at the helm, seemed very anxious to find out if these rules had been obeyed, but must have felt satisfied when the commander declared on his oath that,

. . . from the day he [Surratt] was received on my ship till the moment I delivered him over to the marshal here, he has never spoken a word, and no one has been allowed to speak to him except in reference to his personal wants. . . .²

Surratt's return voyage to the United States was unusually slow, requiring forty-five days from Villefranche to the Capes

of Virginia. The fires under the boilers were extinguished, so one of the ship's officers recalled, because the Navy Department was very economical in those days, and coal could not be used while ships were on the open sea.³

At that, the *Swatara* probably sailed with greater speed than the War Department desired. Stanton had tried his utmost to keep Surratt from being brought back at all,⁴ and now, aided by Seward—whose actions in this whole affair are surpassingly strange—he continued his efforts toward further procrastination.

"It is urged by Seward and Stanton," one reads in Welles' diary, "that the *Swatara* remain at Hampton Roads with Surratt on board until further orders or till the ice disappears from the river."⁵

Of course, it would have been easy to direct the *Swatara* to Philadelphia or New York and bring the prisoner to Washington by train. By waiting until the vessel could sail up the Potomac, the government was allowed to gain almost a full month. The fleeting weeks were not wasted, though. Preparations for the now inevitable trial of the captured conspirator were made with vigor, if without zest.

There was much at stake. No one could say with certainty how much John Surratt knew and how much of what he knew he might tell. Moreover, the hanging of his mother by a military commission, directed by Stanton's Bureau of Military Justice, had to be justified at any cost. If the son should be acquitted, the mother, far less involved, had plainly been a victim of judicial miscarriage, if not of deliberate judicial murder.

Officially, the War Department had no right to busy itself with the case. A man was being brought before a tribunal to answer a charge of murder. The War Department had nothing whatever to do with it. Yet, both openly and behind closed doors, Judge Advocate General Holt and his underlings in the Bureau of Military Justice exerted their full power to prepare

the case and bring about a conviction. Stanton's old friend Edwards Pierpont of New York was engaged to help the local district attorney. Not quite openly, perhaps, for Pierpont was not hired by the War Department, but by Secretary of State Seward. Pierpont, it may be recalled, was the man whom Stanton had asked to represent him against the New York *Tribune* which, in the opinion of the War Minister, had been inciting its readers to assassinate him.⁶ Previous to that, Pierpont had acquired experience in trying state prisoners; Stanton had appointed him in 1862 to act in that capacity.⁷

A mysterious aide to Pierpont in the forthcoming drama was Albert G. Riddle, the ex-Congressman from Cleveland. He also, strange to say, had not been hired by the Department of Justice, but by the State Department.⁸ His part was never clearly defined, but an entry in Welles' diary after the conclusion of the trial throws a singular light on his activities. A Cabinet meeting was in session when the following scene took place.

Mr. Seward handed a communication from Mr. Riddle, implicated in the Conover matter,⁹ to the Assistant Attorney-General for him to file or dispose of as he thought best. . . .

Seward was disconcerted, . . . and the President ordered the paper read. This, I saw, annoyed S. still more. It was a curious document in some respects, and disclosed the fact that R. *had been employed by Seward to hunt up, or manufacture, testimony against Surratt. Why the State Department should busy itself in that prosecution is not clear.*¹⁰

The mystery which so disturbed the observant Welles has never been solved; it leaves much to one's imagination. Riddle had seen the perjurer Conover in prison, and it was evidently through him that he had hoped to "hunt up, or manufacture, testimony against Surratt." Conover, it may be surmised, wanted prompt payment for his services. On July 26, 1867, Riddle and

Judge Advocate General Holt, together with Congressman Ashley of Ohio, one of Stanton's closest friends, signed a petition for clemency for the convicted perjurer, on the ground that while in jail Conover had "disinterestedly" aided in the prosecution of John H. Surratt.¹¹

But now, a few days later,—the Cabinet meeting referred to took place on August 13, and the Surratt jury had been discharged on August 10—Riddle stated positively that he had seen Conover only two times and that Conover had never given him the name of a single witness, nor had he furnished him with a solitary fact.

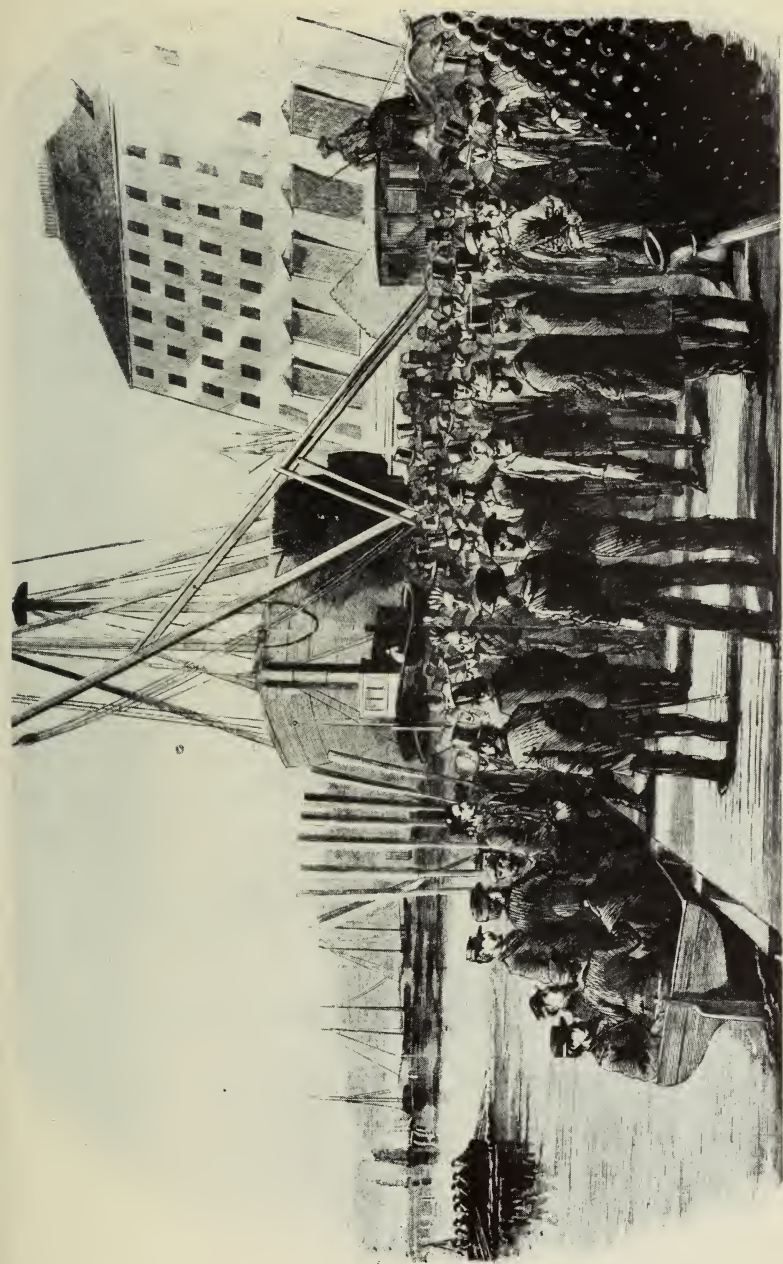
"Why, then," exclaimed Welles, "did Riddle apply to the President for a pardon for C[onover]., and base his application on the ground of service rendered in the Surratt trial?"¹²

An interesting question, without doubt. Welles may not have known that the application also bore the signatures of Holt and Ashley, else a logical answer would have suggested itself to him. Much more intriguing, however, is Welles' first query. Why should Riddle have been employed to hunt up or manufacture evidence against Surratt, and why should Secretary Seward, of all people, have lent his help to such a contemptible scheme?

It is regrettable that Welles made no effort to uncover this unsavory pot, after Seward's carelessness had lifted the lid sufficiently to raise sinister suspicions of what lay simmering within.

The days preceding Surratt's trial must have been anxious ones in the Bureau of Military Justice. To try the conspirator before a military tribunal was out of the question, for by no stretch of the imagination could the country still be considered in a state of war. The civil courts were functioning, were not impeded by hostile armies and hence would have to be given charge of the case.

There was one thing, though, which political influence could



Arrival of John H. Surratt in Washington on February 19, 1867.

(From Harper's Weekly.)



accomplish, and that was the selection of the judge. There were four judges to choose from—the Messrs. Wylie, Olin, Cartter and Fisher. Judge Wylie had issued a writ of *habeas corpus* for Mrs. Surratt in a vain endeavor to stay her execution; Judge Olin had conducted some of the preliminary investigations for the assassination trial and had shown a tendency to probe rather thoroughly into matters assigned to him. Cartter, the chief justice, was known as a personal friend of Stanton, and it would have been impolitic to have him preside at the trial. There remained Judge George P. Fisher, a Delaware Unionist and former Congressman from that state. The task was allotted to him, and his conduct found favor in the eyes of the government prosecutors. Edwards Pierrepont said of him in later years:

I made the acquaintance of Judge Fisher at the trial of John H. Surratt, when I saw his character tested. I found him brave where others cowered, and my estimate of him as a gentleman, a judge, and a man of uprightness and honor is very high.¹³

Gideon Welles expressed himself differently. He condensed his opinion of Fisher's behavior during the trial into one poignant sentence.

"The judge was disgracefully partial and unjust . . ." ¹⁴

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As the *Swatara* neared the American shores, wild rumors began to make the rounds. Fred Seward, son of the Secretary of State, was said to have gone out on a secret mission aboard the government steamer *Gettysburg* for the purpose of intercepting the incoming vessel and offering to John Surratt the promise of a pardon from President Johnson, if he would not implicate the latter in Lincoln's assassination.¹⁵ As a matter of fact, Fred Seward, then Assistant Secretary of State, was on his

way to San Domingo to conclude a treaty for the opening of a harbor for American ships and, far from negotiating with the captured conspirator, almost lost his life in a gale near Cape Hatteras.¹⁶

On February 19, 1867, the *Swatara* finally cast anchor at the Washington Navy Yard.¹⁷ Surratt was handed over to the civil authorities and lodged in jail. While he was awaiting trial, the policy of keeping him *incommunicado* was still adhered to. This fact was subsequently brought out in open court.

"He was debarred by the warden from the use of pen and ink," stated one of the defense counsel, "and the Court had ordered that no one should visit him." The presiding judge indignantly denied this imputation.

"I never issued an order of the kind," he said, "for I never thought it necessary to do so. I have always thought a prisoner's friends had a right to visit him while in confinement."¹⁸

The affair was really a trifle more complex than appeared to the casual observer. President Johnson was fearful lest his political opponents would use Surratt against him in their campaign for impeachment. The Bureau of Military Justice, on the other hand, wanted to repeat its muzzling methods of 1865, so that he could not tell tales out of school. Each side wanted to talk to the accused, but wished to prevent him from talking to anyone else.

"The President remarked that no good could result from any communication with Surratt," wrote Welles in his diary, "and that the more reckless Radicals, if they could have access to him, would be ready to tamper with and suborn him. The man's life was at stake, he was desperate and resentful. Such a person and in such a condition might, if approached, make almost any statement. He, therefore, thought he should not be allowed to communicate with others, nor should unauthorized persons be

permitted to see him. In these views and suggestions I coincided . . .”¹⁹

Mr. Merrick, one of Surratt’s lawyers, stated that he had requested the Court to issue special orders before parties could visit the prisoner, “because there were certain members of Congress prowling around the jail desirous to see the prisoner for bad purposes . . .”

The Court replied that something might have been said on the subject, “but he was sure that he had given no such order, nor said anything that could be so construed.”²⁰ In this he undoubtedly spoke the truth. Holt, Stanton’s field marshal, certainly wanted no court orders which might have excluded his own friends from interviewing Surratt, and in the end Holt won out. All efforts of the President and of the defense counsel to keep Surratt from being approached by the Radical extremists proved fruitless. Congressman Ashley, who was then trying frantically to prove Johnson’s complicity in Lincoln’s assassination, sent word to the prisoner that the latter had only “to give the name of someone high in position,” and “there is a means by which he can save his neck. . . .”²¹ But the conspirators did not know that Doctor Duhamel, who attended the inmates of the prison, was also Johnson’s personal physician and kept the President advised of the plot. John Surratt’s sister Anna epitomized the situation with clarity when she said earnestly that John “knew nothing in that case against the President . . . and could not be induced to swear away his own soul.”²²

Thus the opposing political interests continued to clash behind the scenes, long before the curtain rose on the open court fight in which Surratt’s life was the sole avowed stake.

☆ XIII ☆

ON February 4, 1867, the Grand Jury of the District of Columbia found an indictment against John Surratt, charging him with murder and with entering into a conspiracy to murder "one Abraham Lincoln". On February 19 a bench warrant was issued for the arrest of the accused, and on February 23 Surratt was brought into court handcuffed to plead to the indictment against him.

"How will you be tried?" asked the clerk; to which the response was made,

"By my countrymen."

"Then may God send you safe deliverance," the court officer said ominously.

Surratt was then remanded to jail and allowed to engage counsel for his defense. The great trial, eagerly awaited by two continents, was about to begin.

XIII

The Surratt Trial

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The Prosecution

THE TRIAL of John Surratt was an event of magnitude. The preliminaries alone could be expected to take considerable time. Yet, Surratt's lawyers moved with commendable speed from the moment they had accepted his case. On April 18, 1867, they filed a motion to fix a day for trial; on the same day the district attorney made a motion for a continuance, but was overruled. Surratt's counsel thereupon gave notice that they would be ready to proceed to trial on May 27.¹

When court assembled on that day, Mr. Carrington, the district attorney, announced that the prosecution was not ready. He regretted exceedingly, he said, that several difficulties stood in the way of proceeding to trial. The probabilities were that the case would run into the next term of the court, which commenced on the third Monday in June, and the question had arisen in his mind whether, if the trial were not concluded, the court would continue it at the succeeding term.²

This clumsy attempt at delay elicited a question from the presiding judge: was there not a statute on the books disposing of this objection? Counsel for Surratt stated that there was, and that a case pending at the close of a term would go over and be continued.

Thus rebuffed, the district attorney offered "another and a very serious objection." Important witnesses had failed to appear, he claimed, and new facts were still being brought to light. He refrained from making a motion for continuance; he simply was not ready to proceed. This put the decision into the hands of Judge Fisher, who had already stated that in the absence of such a motion the trial must begin. Now he reversed his ruling and ordered a postponement to June 10.

By April 29 the daily press had become restless because of these dilatory tactics of the public prosecutor.

"There have been dark hints and horrible suggestions," wrote the Springfield (Mass.) *Daily Republican* on that date, "by the party papers on both sides as to the probable reasons for denying a trial to John H. Surratt, as though he might implicate in the great assassination conspiracy some one or more persons high in place at Washington. Such fearful suspicions should not be excited without good reason, and there is none apparent in this case."

The New York *Herald*, under date of May 19, published some pungent observations of its Washington correspondent.³

Monday week is the day fixed for the commencement of Surratt's trial, but I have reason to think that the prosecution will not be ready then, if ever . . . it will only bear out my dispatch of some weeks ago, to the effect that [the] Government is in no hurry to bring on the trial, if, indeed, it does not intend to abandon it altogether. The prisoner's legal representatives have over and over again reported themselves ready, but, contrary to the general ruling, the prosecution, after six months of preparation, has never yet been able to say, "We are prepared to proceed with the trial." . . . There is something curious in this conduct on the part of the prosecution, and it would not cause much surprise now should it turn out that there is some truth in the rumors . . . that [the] Government is averse to any trial of the prisoner at all . . .

The Baltimore *Sun* of May 29 also felt uneasy, for it said:

Among other assertions made, is one that when the case is again called up, on June 10th, the prosecuting attorney will abandon the murder count in the indictment. The only charge against Surratt will then be conspiracy, and that being a bailable offence, he will be released to appear when wanted; and it is said that he will never be wanted, but that the case will be permitted to expire by lapse of time, and it is hinted that, for reasons not made public, the trial of Surratt is not at all desirable.

On May 30, the Washington *Daily Morning Chronicle* came out in blunt language, expressing the views of the Radical Republicans.

"The people mean to have John H. Surratt tried . . ." it declared. "The whole mystery of that assassination is not known. If there is any possibility of getting at the truth the people wish to get at it. The Administration will be held responsible . . . particularly . . . when the President is the beneficiary of that assassination. . . . This trial . . . is no mere ordinary trial for conspiracy or murder. . . . It involves the good name of some men in high places, about whom there have been unpleasant surmises. If Surratt is not tried, the connection between the assassination and the betrayal of the nation will have become firmly established in the public mind. . . ."

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By June 10 everything was finally in readiness. An imposing array of counsel had been assembled on both sides of the case. For the prosecution there appeared the district attorney, E. C. Carrington, with his assistant, Nathaniel Wilson, a native of Ohio, who had served as judge advocate during the war.⁴ Associated with them were Edwards Pierrepont and the mysterious

ex-Congressman and ex-defender of State prisoners, Albert G. Riddle.

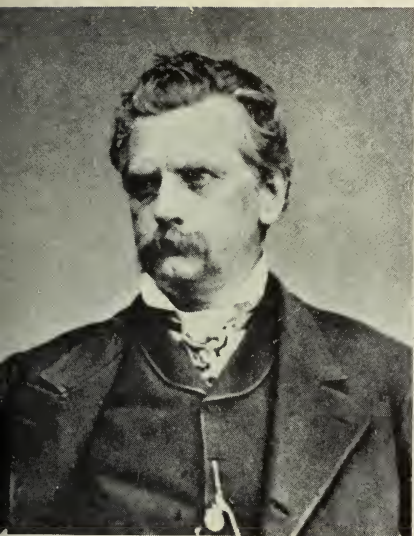
Edwards Pierrepont, the leader of the government forces, was a prominent member of the New York bar. He stood close to Stanton, whom he probably had known at the beginning of his career, when practicing law in Columbus, Ohio. Welles once called him "one of Stanton's jockey lawyers". In 1868 Pierrepont was to tender \$20,000 toward Grant's election. "Such a donation," Welles declared, "is, of course, not disinterested or for an honest purpose. Pierrepont has been paid enormous fees by Stanton and Seward. He is a cunning and adroit lawyer, but not a true and trusty man."⁵

Whether in recognition of his merits or in gratitude for his campaign contributions, Grant later appointed Pierrepont, in turn, United States attorney for the southern district of New York, United States minister to Russia, Attorney General of the United States and, finally, minister to Great Britain.⁶

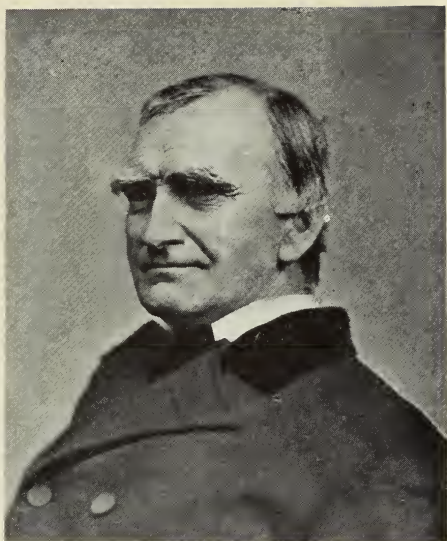
Carrington, the district attorney for the District of Columbia, was not as deep in the confidence of the high powers as was his confrère, although probably neither of them knew the intricate secrets of the case as well as Riddle.

Born in Virginia in 1825, Carrington boasted an ancestry second to none. The Carringtons of Virginia had distinguished themselves in the Revolutionary War; from his mother, Carrington had inherited the blood of the Prestons and the Campbells, of King's Mountain fame. His father had been an officer in the War of 1812, and he was a great-nephew of Patrick Henry. When twenty years old, he had commanded a company in the Mexican War, and the Virginia legislature had given him a sword in recognition of his services. But he remained a loyal Whig. He moved to Washington at the age of twenty-eight, and after Lincoln's election he even canvassed Virginia against secession. One of his brothers had joined the Confederate army,

THE SURRETT TRIAL



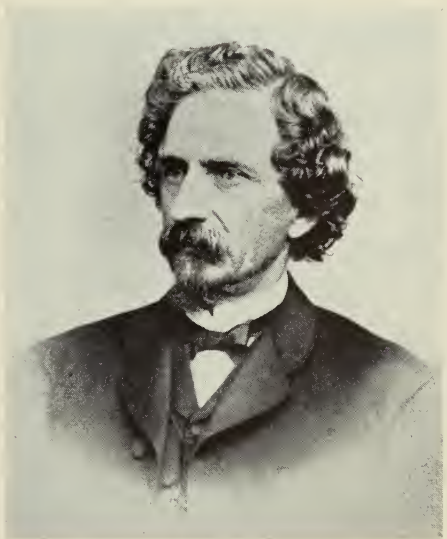
PRESIDING JUDGE GEORGE P. FISHER
(Courtesy of Mr. Frederick H. Meserve,
New York.)



JUDGE A. B. WYLIE
(L. C. Handy Studios, Washington, D. C.)



EDWARDS PIERPONT, chief counsel for the
Government in the Surratt Trial.
(From the author's collection.)



ALBERT GALLATIN RIDDLE, representative of
the State Department.
(By courtesy of the Western Reserve Historical
Society, Cleveland.)

while another fell on the Union side in 1864.⁷ In the spring of 1861, a United States attorney for the District of Columbia had to be appointed and the choice had lain between Stanton and Carrington. The latter had won out, due to Attorney General Bates' friendship for the Carrington family; his reappointment had followed in 1865.

Albert Gallatin Riddle was in court to represent the State Department, at the special request of Secretary Seward. He stated so in his *Recollections of War Times*,⁸ but failed to explain what interest the State Department had in the trial of a murder case. The moment Surratt had landed in the United States, he had passed from Seward's jurisdiction into that of the Attorney General, and neither the War Department nor the State Department had any right to take official cognizance of further developments. Curiously enough, Riddle had two years before been asked to aid in the defense of Mrs. Surratt, but had declined.

Surratt's interests were represented by Joseph H. Bradley, an elderly trial lawyer of Washington, wise in the ways of courts, alert, and gifted with a sarcastic tongue which he was always ready to use. A distressing habit of bullying and insulting witnesses marred his record and was to find vent in many violent onslaughts during the forthcoming trial. As an old time War Democrat, he had offered his services to the government as a Union volunteer in 1861, in company with none other than his present adversary, Carrington. Nevertheless, he had remained in opposition to the Lincoln regime and had become an acknowledged champion of the politically oppressed. In 1865, swamped with other professional obligations, he had regretfully declined to defend the conspirator David E. Herold.⁹ At Bradley's side were his son, Joseph H. Bradley, junior, and Richard T. Merrick, an able and forceful assistant.

Merrick, a son of Senator William D. Merrick of Maryland,

had commanded a company in the Mexican War, although then under age, and had later practiced law in Chicago, from which city he had been sent as a delegate to the Democratic convention of 1860, where he had supported Douglas. In 1864 he had moved to Washington. Merrick was a brilliant speaker and debater. It was Merrick whom General Thomas was to employ within a year to represent him after his famous imbroglio with Secretary Stanton.¹⁰

Merrick's brother had been chief judge of the Circuit Court of the District of Columbia until this tribunal was abolished by an unusual act of Congress in 1863.¹¹ Against him Senator Wilson of Massachusetts had exclaimed that "his heart is sweltering with treason", and the jurist had been practically put under guard for interfering with the arbitrary arrests of the provost marshal's forces.¹²

The younger Bradley, then a man of thirty-six years, was completely overshadowed by the presence of his father, and little was known about him. Only one incident in his life distinguished him. He had been arrested after Lincoln's assassination because he looked somewhat like Booth, and had been held in prison until he had secured witnesses to prove his identity.¹³

Throughout the trial Surratt was consoled by his sister Anna, his brother Isaac¹⁴ and many friends. Although a collection was taken up to defray the expenses of the trial, it yielded only about \$1,500,¹⁵ and a competent defense would have been impossible had not Mr. Bradley undertaken the task without remuneration. It was Miss Surratt who had pleaded with this veteran of many court battles to shoulder the difficult and thankless task of defending her brother. And she did more than plead. Proud as she was, she sold pictures of her brother to anyone willing to buy them, in order to help raise additional funds for his war chest.¹⁶

The requisite number of jurymen had been assembled. They were about to be examined, when the district attorney rose and challenged the panel on the ground that it had not been drawn according to law. This assertion created quite a commotion, but Carrington was undoubtedly right. It appeared that in selecting the jurymen certain customs which were in technical violation of the statutes had become the vogue, although no one had ever raised any objection before.

"In my view," Mr. Pierrepont declared, ". . . I should not hesitate in saying . . . that a verdict of a jury thus illegally empanelled would be altogether worthless, and that no man could be executed upon it . . ."

Thereupon Mr. Bradley wanted to know what was to be done with all those who already had been executed—about twelve, he thought.

"Oh, no," the district attorney hastened to reply, "not quite so many as that. And I will only say that it is never too late to do good. I don't want to hang any more in that way."¹⁷

Inwardly, all members of the Washington bar must have been boiling with rage that a lawyer from New York had revealed the existence of such a flaw which had been universally overlooked. It certainly showed scandalous laxity in judicial administration at the nation's capital.

Counsel for the defense even embroiled the presiding judge in the controversy.

"It is somewhat remarkable," commented Mr. Merrick with irony, "that the objection . . . should be presented for the first time at this late day. Since the passage of the act of 1862, . . . the jurors have been uniformly drawn, and the lists uniformly prepared in the same manner . . . ; and if this jury is illegally constituted, . . . your honor has been dealing somewhat inconsiderately with the lives and liberties of the citizens . . . since 1863, when your honor came upon the bench. You have hung

one man . . . and you are now to be gratified with the intelligence that . . . you were guilty of simply killing . . . A pleasing reflection to your honor . . .”¹⁸

Weakly the chief representative of the government came to the assistance of the bench.

“. . . if the statute has never before been called to your notice,” Pierrepont expostulated, “of course your honor has not passed upon it. . . . it is no man’s fault; it has not been thought of.”¹⁹

The judge thereupon ruled that the panel should be set aside and that summonses for a new jury should be issued. The government had gained its point—and a few more days’ time.

This continued dilly-dallying did not escape the impatient press. The *Chicago Times*,²⁰ a Democratic organ, thought that “the proceeding gave rise to a suspicion that the marshal will summon talesmen from men whose prejudices are against the prisoner. . . . the trial . . . should be so conducted as to impress the people with a belief in its fairness. There is something more than the gratification of an idle curiosity or the infliction of punishment involved in the result. Surratt is not the only person on trial.”

The *Washington Chronicle* was beginning to worry if Surratt was ever going to be tried.

“Again the country,” it pleaded on June 13, “agitated and deeply anxious to know as much of the mystery of the assassination as can be fathomed, is harassed with doubt. The jury panel was set aside yesterday, by order of the court. We shall not question the legality of the court’s decision, but why was a panel summoned that made such a decision necessary? These things only tend to intensify the suspicion with which the whole people regard these untoward proceedings. The nation wants to get at the bottom of the terrible mystery. Who is there behind these occurrences that has an interest in defeating the law by evasion?”

We cannot charge it upon the prisoner. In this trial his life is the smallest stake. What we want is light, not life. No other man's life can pay for the precious one that Booth's pistol blotted out for the sake of the Southern Confederacy."

It was now Friday, June 14. On Monday, the 17th, a new term would begin, and it was therefore vital that the jury be chosen before that time, else the case would have to go over to the fall term. When court opened on the 14th, Judge Fisher was not on the bench. Judge Wylie announced that his colleague was "quite sick, and unable to attend . . ." Judge Wylie added that his ailing associate had not requested him to hold court, but that he wished to be present so that the empanelling of the jury could be completed. Mr. Pierrepont, who seemed anything but gratified by the appearance of a substitute on the bench, slyly suggested adjournment for one day, in the expectation that Judge Fisher would have recovered by that time.²¹ Only three jurors had been agreed upon so far, and a week-end was in the offing; as Pierrepont had not yet exhausted his challenges, he could therefore reasonably hope to effect a postponement for several months. But Judge Wylie completely ignored this proposal. Thereupon the prosecution took a final, drastic step to stop further proceedings.

"I do not know," the district attorney addressed the court, "whether your honor's attention has been called to the act of Congress, which was read to Judge Fisher, providing that unless a jury is empanelled during one term of the court, we cannot continue the trial of the case during the succeeding term. . . ."

The Court. That is why I am sitting here to-day in order that we may get a jury before the next term begins.

The District Attorney. . . . it occurred to us that it would be impossible for us to empanel a jury to-day. But even if we should . . . there are other difficulties . . . where a judge takes the place

of the one to whom the term has been assigned, it should be upon his written request. . . .

The Court. How do you know but what I have that.²²

It seems that the court and the district attorney were both on dangerous ground here, and the subject was dropped as if by tacit agreement. Carrington next argued that it would be of doubtful legality to have one judge start empanelling a jury, another judge complete it, and a third judge preside at the trial. But Wylie, who probably had stepped into the breach with a well-defined suspicion of what was in the wind, could not be intimidated.

"It is not worth while," he decided, "to waste any time upon points of that sort. I am not disposed to listen to argument upon such. The law knows neither Judge Olin, Judge Fisher, nor Judge Wylie, but looks to the 'justice of the criminal court' . . . The court overrules the objection . . . There is no use . . . discussing the matter."

Mr. Pierrepont. (In a low tone to the district attorney.) We cannot go on.²³

This by-play had an amusing tinge to it which was lost in this official government-sponsored transcription. The full stenographic version adds the following colloquy:

Judge Wylie. " . . . There is no use of discussing it. We cannot waste time."

Mr. Carrington. We did not make the suggestion with any such view. Of course, your honor would not impute anything of that sort.

Judge Wylie. Of course not.

Mr. Carrington. We did it from a sense of duty.

Judge Wylie. No doubt of it.²⁴

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The jurymen who were eventually selected seemed to meet the approval of everyone. The Washington correspondent of the Boston *Saturday Evening Gazette* discussed for his paper the qualities of both the rejected and the accepted panel.²⁵

. . . that the [first] panel of twenty-six men was largely Irish, Catholic and democratic, the bare calling of their names gave assurance to everybody. The chief objection thereto, it seemed to me, lay in the fact that it was a panel of dunces. Not one face in six, of the two benches full, was that of a man ordinarily intelligent. I am utterly at a loss to understand how it was possible, without extra effort, to get together such a company of stupid. Whether it be possible to secure conviction, whatever the testimony, before a jury composed in large part of Catholics, is a question as to which there may be differences of opinion; but as it is especially desirable that this case, involving the great mystery of the assassination conspiracy, should be tried before intelligent men, I think it a case of congratulation that the judge grant[ed] the motion of the district attorney.

But the new and finally chosen jury is the best that Washington has seen in many years. Nearly all are men between forty and fifty years of age. Politically none are republicans, and none were secessionists during the war. Two or three are rather prominently known as democrats, but no one can technically be classed a politician. Half of them at one time or another have been in the city council, and one now is a member of the board of aldermen. All of them are men of good standing in the community. At least half are merchants. Not more than two are Roman Catholic in religion. As a whole it is a jury that will endeavor to deal honestly with the evidence. . . .

It is noteworthy that no attacks were ever launched against the Surratt jury by any section of the press, even after the trial had closed; as each jurymen had undoubtedly been scrutinized closely by the reporters, the judgment of the Boston *Gazette* was obviously representative of the general opinion.

By June 17, the preliminary skirmishes were over, and the proceedings began in earnest. Judge Fisher was again well enough to preside. He did not vacate his chair again during the remainder of the case, although on at least one occasion he was so unwell that a postponement had to be taken.²⁶

A special reporter for the *Chicago Tribune* sent to his paper on June 24 a word picture of the setting in which the great trial was being enacted.

The court-room is in the old City Hall. It is . . . Washington As It Was—a room forty feet square, dingy with age and neglect, and dirty with much use and many feet. There are three great windows on the south, from which one can dimly see the old arsenal . . . within which the other assassins were tried and executed; and three great windows on the north, from which one can easily see the old jail in which Surratt is confined, and the path up which he walks, the Marshal on one side and a deputy on the other . . . The Judge's bench is on the east—a high, ungainly, old-fashioned concern, within which His Honor sits in solitariness and incongruousness . . . On the right of the Judge is a door opening into the little room wherein witnesses are kept. On the left is another door through which enter lawyers, prisoner, reporters, and such other . . . persons as can pass the grizzley moustache keeping guard there. In front of the Judge is the Clerk—old and methodical and inoffensive, of course, as the Clerks of courts always are. At his immediate right is the stenographer of the court—young and nimble and knowing, of course, as short-hand writers always are. Just at his right, . . . eighteen inches above the main floor, is the witness box . . . In the northeast corner . . . are the jury benches, long and uncomfortable. The lawyers are in front of the Clerk . . . Within the bar can be seated about seventy-five persons . . . Out side the bar is standing-room for two to three hundred. The windows are dirty, the ceilings are cobwebby, the whole place is seedy and slovenly.

Judge Fisher, in the opinion of this correspondent, had “nothing in his manner to impress one with the majesty of the law.

. . . His face is not stern, but it shows force and individuality. . . . The judge is just in the prime of life. He is never arrogant—it would hardly do to say that he is undignified, but . . . during the pauses . . . he likes to lean over his desk and chat with the lawyers. He is a man of large frame, with a squarish sort of face, and most kindly eyes. He wears no whiskers, but has a formidable moustache which is as non-judge-like as you please. . . .”

General Carrington, the district attorney, appeared to this reporter as “a man of some ability and considerable singularity—tall, angular, unique, with a full and flowing John-Brown-ish beard, fifteen or sixteen inches long and of a grizzly red-brown color . . . His voice is harsh, his manner abrupt, his peculiarities are numerous.”

Contrariwise, his assistant, Mr. Wilson, was pictured as a small man, five feet eight inches tall, easy, graceful, fluent, courteous, affable, sharp, concise, companionable—all that. He knew more about the case than anyone else, the reporter wrote, and had the good will of everybody.

Edwards Pierrepont was described as “a medium-sized man, whose appearance suggests Europe. He shaves his chin, but wears a heavy moustache and long side-whiskers of English cut.” His hair, beard and eyes were black, and he made a good impression on the attendants of the court.

“Joseph Bradley, Senior,” continued the correspondent of the *Tribune*, “is at the head of the criminal bar of the district. He is noted, in recent days, for his successful defence of Mary Harris, who murdered Burroughs, the Treasury clerk. . . . He [Bradley] is a tall and large man of fifty-five, or thereabouts, with a roundish head, entirely bald in front and on the top. His face is round and his eyes are keen—his jaws are firmly set and his manner is easy and colloquial. Everybody knows him, he

knows everybody, and Washington is quite inclined to worship at his shrine."

The Mary Harris case had furnished one of the great sensations of its days. During that trial, which had just ended, Bradley had coined the phrase "paroxysmal insanity" and thereby freed his client. If the Chicago writer had been able to see into the future, he would have discovered that many years later, in 1883, client and lawyer were joined in holy matrimony, although Bradley had then passed his eightieth birthday.²⁷

Bradley's son appeared to the correspondent as an ordinary looking young man of about twenty-six, and a chip off the old block. Merrick was described as "the best-dressed man at our bar—not that he is foppish, but that he likes to make a good appearance and isn't above wearing a handsome neck-tie. Smooth, suave, open-handed, with bright black eyes that meet yours frankly—the man makes you see Dick Merrick every time you look his way."

A contemporary writer presented another intimate picture of the courtroom scene.

The court room is located in the centre of the east wing of the City Hall, and possesses but few of the accommodations needed for a trial of this magnitude. It is the same room in which another famous trial took place, that of Daniel E. Sickles, charged with the murder of Phillip Barton Key,²⁸ and the interest and excitement at present are not unlike the opening of that trial. Large crowds are turned away unable even to obtain standing room. A detail of police are present to preserve order. . . . Every leading journal in the country, and the London "Telegraph" are here represented. . . . It is truly astonishing . . . that between the counsel on both sides the most genial cordiality and harmony exists. . . . They may be seen talking, laughing, eating and drinking together. In fact it would be conceded all were on the same side. Now you see Carington stretched full length across Bradley's desk, a model of can-

dor and coolness; now, Bradley Jr., talking pleasantly with a . . . witness against his client; now, Merrick and Pierrepont stroll away to some corner and laugh and talk together; and anon Bradley, Sr., and Wilson may be seen joking . . . I sat for a long half hour with my eyes fixed on the prisoner . . . He appeared very downcast and melancholy to-day, smiling very seldom at some witty remarks of Bradley, Sr. . . .²⁹

At a quarter to 11 the prisoner was brought into court, handcuffed, and with a pale and careworn countenance. Excepting a moustache and goatee, his face was clean-shaven, and he wore his hair long and hanging about his neck.³⁰ The ladies of Washington considered him quite attractive and thronged the courtroom. Surratt usually created a favorable impression on those who saw him, and even Admiral Goldborough, in writing to Secretary Welles, had spoken of the alleged conspirator as a "handsome, cultivated, well behaved young man, perfectly self possessed . . . who conducted himself with great propriety."³¹

But not all observers spoke so well of the prisoner. A correspondent of the *New York Times* who had visited him on April 2, disapproved of many things.³²

My conversation with this somewhat remarkable man was not so full and free as I could have wished. He evidently was in no mood to talk on the topics that were most prominent in my own mind . . . I ventured to ask him a leading question in regard to his escape and concealment in Canada. Putting on one of his most offensive smiles, he replied, "I have nothing to say about that." His manner . . . more than his words, conveyed to my mind . . . that he considered it "a good thing," something to boast of, a great secret that would tend to make him famous hereafter . . .

After a time Surratt's handcuffs were removed and the prisoner was taken from the box to a seat next to his counsel. He exchanged nods with friends in the audience, and engaged in a

lively conversation with Mr. Merrick, even laughing heartily at times.

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The assistant district attorney now outlined his case. He proposed to show that the defendant had been in Montreal on April 10, 1865, when he had received an urgent request from Booth to proceed to Washington at once; he had obeyed the summons and had arrived at the capital on the 13th. The fixing of this date later proved a bad error of judgment; but Wilson could hardly foresee this at the moment.

"We shall make the proof to be as clear as the noonday sun," he prophesied, ". . . that he was here during the day of that fatal Friday [April 14, 1865], as well as present at the theatre at night . . . You shall know that his cool and calculating malice was the director of the bullet that pierced the brain of the President . . ." ³³

In order to build a proper foundation for its case, the prosecution had to establish the assassination as legally proven. It was during this phase of the trial that a curious thing happened. One of the witnesses was Major Rathbone, who had been one of the Presidential party at Ford's Theatre. His statement brought out no new facts, but is remarkable in another way: he repeated, *almost verbatim*, the phrases he had used two years earlier. Three times Major Rathbone was asked to relate his experiences of that memorable evening; and three times he used almost exactly the same language. For this peculiar behavior there can be only two answers: either he had learned his statement by heart, or else he read it from a memorandum. In either case, the true reason for this extreme caution calls for an explanation. Did Rathbone have to be so careful in what he said because—as is now known—he was suppressing each time some vital evidence? For he had

chosen not to mention the delinquent bodyguard Parker nor the footman Forbes, nor had he referred to the appearance on the scene of Hanscom, the editor of the *Washington Republican*.³⁴

Was it the Bureau of Military Justice whose hand was thus being felt in the trial right from its beginning? It is a pity that Major Rathbone's statement was not compared by the defense with those he had made before, for under Bradley's thorough cross-examination some hitherto hidden details of the assassination might have been brought to light.

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The district attorney next devoted himself to the all-important task of proving that Surratt had actually been on the scene of the crime during the evening of April 14. This was the crux of the entire case. Unless it could be shown that the accused had been in Washington on the day of the assassination, a verdict of guilty could not be expected.

The first witness introduced was a sergeant named Joseph M. Dye, who had also appeared as witness for the prosecution in the conspiracy trial, when he had obligingly recognized Booth and Spangler as part of a group of three who had held a mysterious conference in front of Ford's Theatre. As a matter of fact, Spangler had been on the stage continuously, never had worn a moustache, as Dye had claimed, and could not have been the man Dye had referred to; yet, largely as a result of this false testimony, he had been sent to the Dry Tortugas. Even the stern military commission must have entertained some doubts, for the scene shifter's sentence had been an unusually light one. This sergeant was now called on to swear to Surratt's presence in Washington. Without hesitancy he identified the defendant as the third man of the odd-looking whispering trio and as the one

COMPARISON OF TESTIMONIES OF MAJOR HENRY R. RATHBONE

Statement before Judge A. B. Olin, April 17, 1865.³⁵

That on April 14th, 1865, at about 20 minutes past 8 o'clock in the evening, he, with Miss Clara H. Harris, left his residence, at the corner of Fifteenth and H Streets, and joined the President and Mrs. Lincoln, and went with them in their carriage to Ford's Theatre, in Tenth Street. . . .

When the party entered the box, a cushioned armchair was standing at the end of the box farthest from the stage and nearest the audience. . . .

When the second scene of the third act was being performed, and while this deponent was intently observing the proceedings upon the stage, with his back toward the door, he heard the discharge of a pistol behind him, and looking around, saw, through the smoke, a man between the door and the President. . . .

This deponent instantly sprang toward him and seized him; he wrested himself from the grasp, and made a violent thrust at the breast of deponent with a large knife. Deponent parried the blow by striking it up, and

Statement at the Conspiracy Trial, May 15, 1865.³⁶

On the evening of the 14th of April last, at about 20 minutes past 8 o'clock, I, in company with Miss Harris, left my residence at the corner of Fifteenth and H Streets, and joined the President and Mrs. Lincoln, and went with them, in their carriage, to Ford's Theatre in Tenth Street. . . .

On entering the box there was a large armchair that was placed nearest the audience, farthest from the stage . . .

When the second scene of the third act was being performed, and while I was intently observing the proceedings upon the stage, with my back towards the door, I heard the discharge of a pistol behind me, and, looking round, saw, through the smoke, a man between the door and the President. . . .

I instantly sprang towards him, and seized him. He wrested himself from my grasp, and made a violent thrust at my breast with a large knife. I parried the blow by striking it up, and received a wound several inches deep in my left

Statement at the John Surratt Trial, June 17, 1867.³⁷

On the evening of the 14th of April, at about 20 minutes past 8, I, in company with Miss Harris, left my residence at the corner of Fifteenth and H streets, joined the President and Mrs. Lincoln, and went with them in their carriage to Ford's theatre, on Tenth street. . . .

On entering the box there was a large armchair placed nearest the audience, and furthest from the stage . . .

When the second scene of the third act was being performed, and while I was intently observing the performance on the stage, I heard the report of a pistol from behind me, and on looking round saw dimly through the smoke the form of a man between the President and the door. . . .

I immediately sprang towards him and seized him. He wrested himself from my grasp, and at the same time made a violent thrust at me with a large knife. I parried the blow by striking it up, and received it on my left arm,

received a wound several inches deep in his left arm, between the elbow and the shoulder. . . .

The man rushed to the front of the box, and deponent endeavored to seize him again, but only caught his clothes as he was leaping over the railing of the box. . . .

Deponent then turned to the President; his position was not changed; his head was slightly bent forward, and his eyes were closed. Deponent saw that he was unconscious, and supposing him mortally wounded, rushed to the door for the purpose of calling medical aid.

On reaching the outer door of the passageway, as above described, deponent found it barred by a heavy piece of plank, one end of which was secured in the wall . . . This wedge, or bar, was about four feet from the floor.

Persons upon the outside were beating against the door for the purpose of entering. Deponent removed the bar, and the door was opened. . . .

Deponent then returned to the box, and found the surgeons examining the President's person. They had not yet discovered the wound. As soon as it was discovered it was determined to remove him from the theatre. . . .

arm, between the elbow and the shoulder. . . .

The man rushed to the front of the box; and I endeavored to seize him again, but only caught his clothes as he was leaping over the railing of the box. . . .

I then turned to the President. His position was not changed; his head was slightly bent forward, and his eyes were closed. I saw that he was unconscious, and, supposing him mortally wounded, rushed to the door for the purpose of calling medical aid.

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I then returned to the box, and found the surgeons examining the President's person. They had not yet discovered the wound. As soon as it was discovered, it was determined to remove him from the theatre. . . .

between the elbow and the shoulder, and received a deep wound. . . .

The man sprung towards the front of the box. I rushed after him, but only succeeded in catching his clothes as he was leaping over the railing of the box. . . .

I then looked towards the President. His position had not changed, except that his head was slightly bowed forward and his eyes were closed. Seeing that he was insensible, and believing him to be mortally wounded, I rushed to the door for the purpose of getting medical aid.

I found the door barred with a piece of wood, a heavy piece of plank, which was resting against the wall and against the centre of the door, about four feet from the floor.

The people on the outside were beating against it. With some difficulty I removed the bar, and those who were there came in.

When I returned into the box I found that they were examining the person of the President, but had not yet found the wound. When it had been discovered it was determined to remove him from the theatre. . . .

who had repeatedly announced the time of day, just before Booth's entrance into the theatre.

But this time his deposition was destined not to pass into the records unscathed. Surratt's attorneys quickly showed that Dye had described their client as the smallest of the three men, estimating Booth's height at five feet eleven and Surratt's at five feet six;³⁸ the exact reverse of these figures would have come closer to the truth. Dye then tried to explain that "size" meant breast measurement with him, but this argument was not tenable in view of the length measurements he had given. He probably made the audience laugh by stating that since that night he had often seen Surratt's face in his sleep—"it was so exceedingly pale."³⁹ It was subsequently shown that from the carriage platform on which Dye had been sitting, he could not have seen the face of the man he now swore had been Surratt.⁴⁰

In the end, Dye completely ruined the effectiveness of his testimony when he added a new and sensational tale which was meant to throw a damning light on the prisoner's mother, now dead for two years. He related that he and a companion, while walking back to their camp that memorable evening, had passed a house on H Street. A lady had raised a window and asked what was wrong down town. When informed that Lincoln had been shot, she had asked how the soldiers knew that. *That lady had resembled Mrs. Surratt.* The event had only recently come back to Dye's memory—"it was when the question was raised in the press of the country that Mrs. Surratt had been condemned unjustly that all this came into my mind about her. I learned that she lived on H Street, and I remembered the person asking what was going on down town, in a state of excitement, although no person had passed that way. I thought it was a person who knew something was coming off down town; that is it. I believe it in my own mind, too, that she knew all about it, and was waiting with a dim light in the parlor."⁴¹

With this artistic flick of the brush Dye climaxed his story. He had done well for the prosecution. He had not only identified Surratt as one of the mysterious group in the shadows of Ford's Theatre, but he had even thrown new suspicion on the behavior of Mrs. Surratt, whose possible judicial murder was being discussed with more and more intensity.

Fortunately, the proceedings on this occasion were not held before an arbitrary military commission, but in a civil court, and the defense was not in the hands of youngsters, but in those of experienced fighters. Dye, good dreamer though he was, probably little dreamed that, his aspersions torn to shreds, he would be left an object of scorn and ridicule.

Shortly after Dye's grandiloquent exit, a modest, elderly matron mounted the witness stand. Her name was Frederika R. Lambert. No one knew why the defense had called her, but it soon became apparent. She had lived at 587 H Street, a block or so away from the former Surratt boarding house, and she gave her artless version of what had happened on the night of the assassination.

Between 11 and 12 o'clock I heard a voice, indistinctly, on the street, calling out: "The President was shot." I . . . got a shawl and threw it around me . . . opened the window and saw two soldiers passing. I . . . asked them . . . what caused the excitement.⁴²

Mrs. Lambert's colored maid fully corroborated her.

Some soldiers went along—a crowd first, and then two soldiers by themselves. She asked those two what was the matter, and they said the President was shot. She asked them who did it. They told her that Booth had done it.⁴³

A few simple words by two simple women, but enough to blast Dye's hopes for glory. All he had accomplished was to

focus the attention of Mr. Bradley upon himself. The consequences were disconcerting. Bradley discovered that Dye was under indictment in a Pennsylvania court for passing counterfeit money. It is safe to say that after this Dye wished he had stayed at home.

The defense was able to identify the mysterious group in front of Ford's Theatre as consisting of three employees of the playhouse; the alleged Surratt, announcing time like Fate in a Greek tragedy, was a harmless costumer, afraid of his own shadow.⁴⁴

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The next witness to identify Surratt was a tailor by the name of David C. Reed, whose sideline was running a faro bank.⁴⁵ When asked whether he had seen the prisoner in Washington on April 14, he answered that he thought he had, but that he had been attracted more particularly by "his dress rather than his face."⁴⁶ This showed that the witness no doubt was a good tailor; but his credibility suffered when he made reference to the prisoner's age.

Q. How long have you known him by sight?

A. . . . Since he was quite a boy.

Q. . . . do you recollect saying that he was a man about thirty-five years old?

A. From thirty to thirty-five years old I supposed he might be.⁴⁷

Surratt was only twenty-three years old at the time of the trial,⁴⁸ and had been but twenty-one at the time of the assassination. Could anyone, so Merrick asked pertinently, who claimed to have known the accused from childhood, be guilty of so gross an error?

A most interesting witness, brought forth to swear that Surratt had been in Washington on April 14, was Mrs. Surratt's

former colored maid, Susan Ann Mahoney, now Susan Ann Jackson. She testified that she had seen the prisoner in his mother's dining room that night and had brought tea to him. What had made a lasting impression on her mind was that Mrs. Surratt had asked her then if her son did not look like his sister Anna.

That the memory of this negro girl was faulty became manifest a few seconds after she was on the stand; for she averred that Mrs. Surratt had gone to Surrattsville on April 14 between 11 and 12 o'clock in the morning⁴⁹ when, in reality, the trip had begun at half past 2 in the afternoon. Counsel for the defense overlooked this lapse; what he did bring out, however, was that the witness had been examined once before, immediately after the assassination.

Q. Were you ever examined as a witness about this matter before?

A. Yes, sir . . .

Q. . . . When was that?

A. Monday night after the assassination . . .

Q. Did they write down your examination?

A. Yes, sir.

Q. . . . did you then make the same statement you do now?'

A. Yes, sir.⁵⁰

This was outright perjury. The archives of the War Department show that the colored maid had then made an entirely different statement regarding the evening's events. On April 30, 1865, Colonel John A. Foster, an investigator for the War Department, had recorded her story in this manner:⁵¹

A negro woman stated that the night of the murder late at night, three men called at the house of Mrs. Surratt and requested to see her. The woman was in the habit of sleeping upon the floor in a basement room. At the time she was lying upon the floor apparently asleep; that these men in the course of their conversation stated to

Mrs. Surratt that her son was in the theatre with Booth at the time of the assassination. One of that number requested her to allow him to change his clothes . . . When he returned the girl feigned sleep. Another boarder at the house by the name of Norah Fitzpatrick, about nineteen years of age, was present at this interview and leaned over the girl to see whether she was asleep . . .

This was the story which had led to the arrest of Mrs. Surratt and had brought Susan Ann Mahoney-Jackson a reward of \$250.⁵² She did not dare repeat it now, just as she had not mentioned the scene in the dining room when she had first been examined.

Mr. Merrick did not have access to the secret files of the Bureau of Military Justice, yet he said: "I honestly believe, as I am responsible before Almighty God, *that woman is lying, with the full knowledge of the United States government*";⁵³ and Pierrepont, who must have known that this was true, made the following significant remark in his final plea to the jury:

"It is for you to say whether she has committed . . . perjury. If you think she has, say so."⁵⁴

What the jurymen thought no one but themselves knew; but Colonel William P. Wood, watching the proceedings of the trial with a critical eye, wrote later that Surratt had been "confronted with an abundance of perjured testimony." In Wood's opinion the accused "knew nothing whatever about the conspiracy of assassination."⁵⁵

The prosecution evidently felt itself in desperate straits to use such underhanded methods of attack. Indirectly, Susan Ann Jackson's testimony disclosed another strange matter: *The War Department was taking official cognizance of a suit in a civil court.* Moreover, it was lending a helping hand to a harassed prosecution, using the same unscrupulous tactics which had proved so effective two years before. This hidden coöperation between two separate departments of the government was

brought into the open by an unguarded admission of the colored girl while under examination.

Q. Were you [examined] at any time after this?

A. Yes, sir; since then I have been down to what they call the War Department; in the course of last week, I think it was.

Q. How long after the assassination?

A. It was just last week I was carried down to the War Department. . . .

Q. And you were examined there?

A. Yes, sir.⁵⁶

Following this unexpected lead, the defense ferreted out the astounding fact that not only Mrs. Jackson, but other witnesses besides her, had been to the War Department before appearing on the stand for examination. One E. L. Smoot came before the court on June 20 and, after making some irrelevant statements, was passed over to Mr. Merrick.⁵⁷

Q. Were you summoned?

A. Yes, sir; I was summoned to appear before the district attorney. . . .

Q. To what official did you go after talking with the district attorney . . . ?

A. I was afterwards examined by Judge Holt [of the War Department]; I did not know his name; he told me he was Judge Holt after I had been examined. . . .

Q. Were there any other witnesses in this case that you know of up there at this time?

A. Yes, sir; *nine others went up with me.*

There must have been a sensation in court and out of it, when this disclosure was made.

The next day Mr. Smoot came back and stated contritely that he was not sure it was Holt who had examined him. There-

upon Mr. Merrick asked him to describe the gentleman. This would have been somewhat embarrassing; but it was not allowed to happen. Judge Fisher saw to that.

Mr. Pierrepont. I submit to your honor whether that is a proper question.

The Court. I will say that I supposed there would be some end to this matter of inquiring as to who has examined witnesses. It is altogether wrong. It is a needless waste of time; . . . if any government officer did not use due diligence . . . to find out what he could prove by witnesses, he would be very derelict in his duty. . . .⁵⁸

Of course, this was not the issue at all, and Judge Fisher knew it. Mr. Bradley at once made short work of this sophistry. He agreed that, as to matters connected with the army, Mr. Holt had authority; but he denied that "the War Department had a right to investigate matters as to private citizens." The Judicial Department had abundant means and did not need aid from another branch of the government.

"Under what law did Mr. Holt undertake to examine into a case pending in a civil tribunal?" Mr. Bradley asked. Bradley then blurted out what he had in his mind, without mincing his words. He "protested against any secret tribunal to investigate proof, and probably to *create proof*." Is it possible that some of the Riddle scandal which later was to become the subject of a cabinet discussion had reached Mr. Bradley's finely attuned ears?

Judge Fisher saw that he had gone too far. He said he had only desired to intimate to counsel that a great deal of time was taken up in examining matters that seemed to be meaningless, and then allowed the defense to proceed with the examination of the witness; whereupon Mr. Merrick drove his point home.

Q. In what room were you examined?

A. If I am not mistaken, while in the passageway, looking round, I saw over the door the words, 'Judge Advocate General's office'.⁵⁹

This was too much. The district attorney jumped up and declared that "the Judge Advocate General is not examining witnesses in this case; not assisting us at all."

Mr. Bradley was just as quick, however. Turning to the court, he exclaimed, "If so, let him state it under oath."

There was no answer to this challenge.

It was during the examination of Susan Ann Jackson, on the second day of the trial, that an extraordinary verbal clash developed between Judge Fisher and the senior defense counsel. Bradley was trying to show that the young negress was mistaken in regard to the date on which she had served tea to Surratt. The witness insisted she was correct in her recollections and could not be shaken. Judge Fisher finally remarked that the same answer had been given at least a dozen times and that "everybody of common apprehension understood it."

Mr. Bradley, flaring up, said he wanted no reflections from the Court. "Perhaps," he protested, "your honor is very sharp . . .; but I have my intelligence, which I think certainly equal to yours; and I have no idea of being browbeaten by the court."⁶⁰

After this outburst, Judge Fisher and Mr. Bradley managed to control their tempers for a while. Eventually, worse was to follow.

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At the beginning of the trial, the prisoner had petitioned the court for financial assistance:

. . . he has exhausted all his means, [his counsel pleaded] . . . and he is now unable to procure the attendance of his witnesses. He

therefore prays . . . for an order . . . to compel their attendance, at the cost of the government . . .⁶¹

Judge Fisher replied that if such was the case, the defense ought to indicate its witnesses and their places of residence. The official report of the trial does not reveal what disposition was made of the matter, but the *Baltimore Sun*, on June 18, reported that an order was entered to have all witnesses for the defense paid by the United States. If the counsel for the accused actually had to show their hand in advance, it must have placed them at an incalculable disadvantage.

By this time Surratt's attorneys had been advised that their opponents would produce seventy witnesses. Knowing nothing of what these witnesses would testify, they requested the court that cross-examination of each witness be postponed, and also that a list of these witnesses be produced so that their records could be examined. Judge Fisher refused Mr. Bradley's request, and the trial proceeded, with the defense working under this severe handicap.⁶²

The attempt to show Surratt's presence in Washington on the 14th of April then continued. A restaurant keeper had heard David Herold, Booth's companion, ask two young men, "You are going tonight, ain't you?" And one of the young men had answered, "Yes." Asked if he saw anyone in the courtroom who looked like one of these two young men, he said, pointing at the prisoner, "Well, the gentleman, I believe, is that man, but I don't know."⁶³ This time, Judge Fisher did not seem to regard such farcical testimony as a waste of the court's time.

Other witnesses summoned to verify Surratt's presence in Washington, April 14, quickly lost their taste for the glamour of public appearance. There was a former detective named John Lee, who "passed a man whom I [he] took to be John H. Surratt."⁶⁴ Major O'Beirne, provost marshal of the District of Col-

umbia, under whom this officer had served, testified that he had discharged Lee, and that he entertained a poor opinion of the detective's reputation and veracity.⁶⁵

Lee furnished one piece of evidence, however, which may not be without a deeper meaning. He had been the one who had cleaned out Atzerodt's room at the Kirkwood House and who had uncovered all the incriminating articles left there by the conspirators.

"I went and showed them to Mr. Stanton," he testified, "and told him we had showed them to the President. He was very angry."

District Attorney: Never mind about that.⁶⁶

Why should Stanton have become angry when he heard that Andrew Johnson had been shown the articles found in Atzerodt's room? Was it because the President, looking at such a complete arsenal of weapons and such a multitude of clues, might have become suspicious that the alleged attempt on his life had some spurious aspects?⁶⁷

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William E. Cleaver, former owner of a livery stable, had known the prisoner for ten or twelve years, and claimed to have seen him on horseback on April 14, the day of the assassination. For him Mr. Bradley had a special treat in store, as the following portion of the cross-examination indicates:⁶⁸

Q. Did you ever take a horse from me to break?

A. Yes, sir.

Q. Did you sell that horse while in your custody?

A. Yes, sir.

Q. Did you ever pay me the money for it?

A. No, sir. . . .

Q. Are you the same Dr. Cleaver indicted, tried, and convicted . . . for rape upon a poor little girl in this city . . . ?

A. I cannot answer that question. . . .

Q. Where have you been for the last month or two?

A. In the city.

Q. Where in the city?

A. I cannot tell you that.

After Cleaver's ignominious departure, there stepped on the witness stand a young lawyer from New York named Benjamin W. Vanderpoel. He claimed to have seen the accused on the afternoon of April 14 in the company of Booth in an amusement hall on Pennsylvania Avenue. There had been others in the party, seated about a round table, and a woman had been performing a dance.⁶⁹ It was later shown that the place he referred to had no round tables and that there never was nor had been any entertainment there during the afternoon.⁷⁰ Vanderpoel, although not proving anything, at least furnished a little amusement for his sweltering audience.

"You remember there was a woman dancing?" he was asked.

"It was a woman or something," he replied.

"It was dressed like a woman?"

"It was dressed like a woman."

Vanderpoel had seen Surratt on that one occasion only, but he boasted that he had very seldom known anyone who could remember faces as well as he.

"Do you recollect that woman's face you saw dancing?" counsel asked him.

"I did not pay much attention to her face; I paid much more attention to her legs," was the rejoinder.

"Do you think you would recognize them if you were to see them?" Mr. Merrick then shot at him.

"I do not think I would," admitted the witness and faded from the picture.⁷¹

On June 19 it was reported that "for the first time . . . a few ladies occupied seats within the bar as spectators." As the trial proceeded, the attention it attracted became more and more pronounced. On June 20, three days after the opening session, a contemporary correspondent wrote:⁷²

There was an increased attendance on the part of the spectators. The number of ladies in attendance has increased. They occupy seats within the bar.

Nine days later the same reporter related that,

The trial of John H. Surratt continued to attract immense crowds to the Criminal Court-room. Ladies congregate about the doors an hour, and sometimes an hour and a half before the time for the opening . . . and many of them endure the close, oppressive air of the court-room all day long. Members of Congress arriving in the city seem to make the court-room the first point of interest to visit.

On June 21 this reporter stated that "The interest in the case diminishes not, and the attendance on the part of the ladies is increasing daily. Some of them merely gratify their curiosity by a look at the prisoner, and then depart, while others remain seated throughout the proceedings."

On June 28, "the trial . . . continued to be the topic of conversation . . . and applications for admission are increasing daily."

By July 27, the popularity of the case had become somewhat of a nuisance, for "the crowd of spectators within the bar, has of late, been so great as to seriously inconvenience the movements of the officers of the Court in the performance of their duties. The presence of so large a crowd too, has prevented to some extent a free flow of air through the room, and this has been a source of great annoyance. Judge Fisher accordingly this morning decided to limit the number of spectators within the

bar, and has directed most of the old tickets to be withdrawn . . .”

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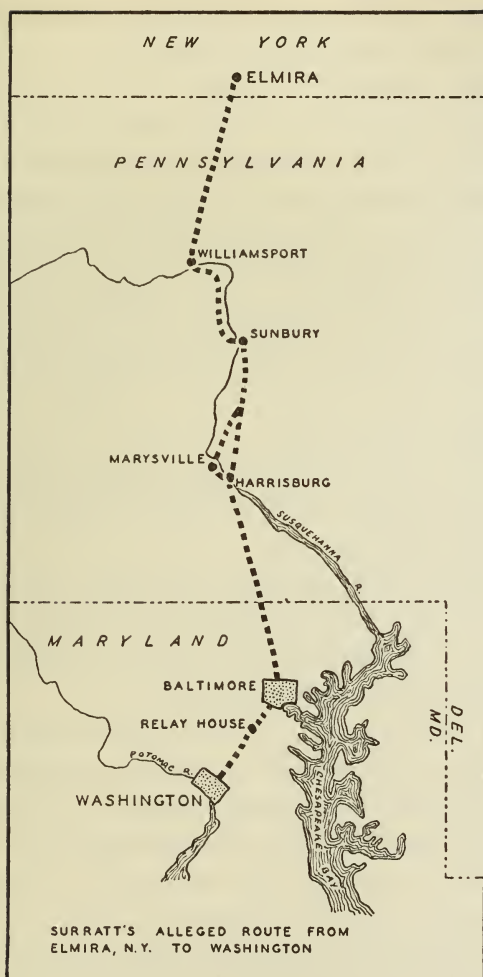
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After Mr. Vanderpoel had stepped off the stand, the government attorneys decided to take stock of what they had accomplished so far. Mr. Riddle, the silent observer for the State Department, was asked to submit a confidential report. Had the prosecution, in his opinion, established Surratt's presence in Washington to the satisfaction of the jury?

How imperative it was for the government to show that the defendant had been in the capital on the day of the assassination had been clearly set forth in the Springfield (Mass.) *Republican* as early as February 27, 1867.

The same questions will arise in the trial of John H. Surratt, which arose in that of Frank Knapp, for the murder of White in Salem, more than thirty years ago, and upon which Webster made his immortal argument. By the old Maryland law, existing now in the District of Columbia, . . . an accessory cannot be convicted until after his principal has been. As Booth has never been convicted, Surratt cannot be convicted as accessory to the murder, and can only be convicted as principal by proving him present, or so near as to be able to render assistance, if needed. . . . How near to the scene of the murder of Lincoln the evidence will bring Surratt, remains for the trial. If, as it is generally understood, he was no nearer than New York, it is difficult to see how he can be convicted of the capital offense—if not of that, then, under the particular statute in question, he can be convicted of nothing.

Counsel for the defense later accused the government in open court of knowing that Surratt had not been in Washington, but in Elmira, New York, on the 13th, 14th and the morning of the 15th of April. One of the government witnesses had so stated long before the trial had commenced on February 5, 1867, and



his testimony before a Congressional committee was even then a matter of public record.⁷³

"They knew he left Canada to come to Elmira on the 12th of April, and was there on the 13th and 14th of April," exclaimed one of the attorneys for Surratt during the course of the trial.⁷⁴

Surratt himself went even further.

"Every register of the hotel [in Elmira] before and after the one which ought to contain my name was . . . found, but the most important one of all was gone. Now, the question is, what became of that register? . . . That some of the Government emissaries abstracted that register I firmly believe . . ." ⁷⁵

Riddle should have known that the government was trying to prove something that was not so. Yet, when he wrote out the requested analysis of the situation on July 1, he did not touch on this matter. He laid his emphasis on the superficial legal aspects of the case.⁷⁶ Incidentally, by using the word *we*, he fully identified himself with the prosecution, although officially in the pay of the State Department.

"Incredulity as to this fact of presence," he contended, "it would seem must yield to this evidence—its numerical weight is too great to be carried. . . .

"It may be conceivable that seven witnesses could be mistaken. . . . But . . . these seven witnesses were perfect strangers to each other. . . . [They] do not testify to having seen Surratt at the same time and at the same place . . .

"We have proved the fact of his presence here by as many witnesses as the presence of any of the conspirators, except Booth . . . No man can or dare doubt it. . . . In this luminous field lurks no shadow of doubt—no subterfuge for even a lie and the juror who now acquits is the accomplice of Booth and Surratt, and is morally guilty of Abraham Lincoln's blood!"

Mr. Riddle protested too much, it seems. Perhaps he was carried away by his own bombastic style. His final judgment was that the government still had a good case, even supposing "in mere gratuitous folly [that] . . . two or three [witnesses] are mistaken and . . . three have committed perjury". This observation may have made the trial managers thoughtful. At any rate, the prosecution decided to bring forth all its reserve witnesses, unsatisfactory as they were.

One of them was a colored barber who said he had shaved Surratt on the morning of April 14; he had seen the prisoner only that one time. His tonsorial work had been performed between 8 and 9 o'clock in the morning.⁷⁷ It was fortunate for the prisoner that this witness was called because, as the case developed, his statement became a boomerang for the prosecution and a keystone for the defense. Incidentally, the barber claimed to have served not only Surratt, but Booth and O'Laughlin as well. The defense showed irrefutably that O'Laughlin had been shaved elsewhere, thereby proving the barber to have been mistaken.

Pierrepont and the district attorney then produced a former soldier named Ramsell. In the early morning of April 15, between 4 and 5 o'clock, Ramsell had walked out on the Bladensburg road, and there had seen a horse hitched to a fence. Soon afterward, a man riding this horse had overtaken him and, uneasy and nervous, had expressed anxiety to pass the pickets.

At this point the prisoner was requested to stand up so that his accuser might see his back.

Q. Did you ever see that man . . . before?

A. I think I have seen that back before.

Q. Did you see it on that horse?

A. I think I did.⁷⁸

Defense counsel did not even cross-examine this soldier with a memory for people's backs, but he did refer to him with biting sarcasm in his résumé of the case.⁷⁹

"I could but fancy a private theatrical between my learned friend Judge Pierrepont and Ramsell," he said.

"Judge Pierrepont.—'Do you see yonder cloud, that is almost in the shape of a camel?'

"Witness.—'By the mass, and 'tis like a camel, indeed.'

"Pierrepont.—'Methinks it is like a weasel?'

"Witness.—'It is backed like a weasel.'

"Pierrepont.—'Or like a whale?'

"Witness.—'Very like a whale.' "

Driven by necessity, the prosecution diligently kept trotting out additional witnesses. An itinerant clockmaker named Rhodes was introduced; he stated that he had passed Ford's Theatre on April 14 about 11:30 in the morning. Having nothing better to do, he had decided to go inside to watch the rehearsal and had walked right into the Presidential box. There he stood admiring a recently painted curtain, when a man entered the loge and started to whittle down the bar which that night was to protect the assassin from being disturbed.

"The crowd may be so immense," he reported this stranger as having said, "as to push the door open, and we want to fasten it so that this cannot be the case."⁸⁰

This flimsy story fell apart before it was a few minutes old. On cross-examination, Mr. Rhodes could not even recall on which side of the stage the box had been.

A high treasury official, Walter H. Coleman, appeared next as an identifying witness. He had seen Booth, on horseback, talk to a man in a confidential manner and thought the prisoner "certainly looks like that man." But under cross-examination he wavered.

"When you came into court today did you recognize him?" he was asked.

"I had some doubts," was the reply, "and have still. I would not like to swear positively that he is the man."⁸¹

Which was lucky for Mr. Coleman, for it was afterward established that the man to whom Booth had been talking was the actor Matthews, to whom he had given his often-quoted letter for the *National Intelligencer*.⁸²

Another employee of the Treasury Department, George W. Cushing, had also witnessed the episode.

"The man I saw talking with Booth was a young man," he testified. "I do not know that he resembles the prisoner very much."⁸³

A considerable stir must have been created when Tad Lincoln was called on the stand to identify Surratt. The boy only remembered that at City Point a man had once asked to see the President "real bad." This man "looked very much like" the prisoner.⁸⁴

What this testimony was expected to prove is something of a puzzle. It certainly had no bearing on the question of Surratt's presence in Washington on April 14, or on much else for that matter. Probably it was only a byplay, put on to arouse the sympathy of the jury.

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On the first day of July, before the prosecution had finished its case, a regrettable incident took place, showing to what degree tempers had been frayed. Mr. Merrick of the defense had made a remark that all the government witnesses waiting to be examined would eventually be in the penitentiary.⁸⁵ This remark, meant to be jocular, was unquestionably in bad taste, and one of the witnesses, Dr. Lewis J. A. McMillan, resented it. When Merrick asked this witness to explain some answer he had made, the doctor sneered that if counsel was not deaf he could hear, adding that an insult to witnesses was the act of a coward and a sneak.⁸⁶ The next day, Mr. Bradley called the attention of the court to this rejoinder, whereupon Judge Fisher declared that in all his judicial experience he had never "seen a case in which there has been so much . . . bitterness of feeling displayed"; never had he "seen witnesses cross-examined with so

much asperity." He then reprimanded the witness, and finally said,

"I advise that we should all, to the best of our ability, endeavor to control our tempers . . ." ⁸⁷

When court adjourned that day, the elder Bradley exchanged sharp words with Judge Fisher. The words were accompanied by a menacing gesture, and the impression gained ground that Bradley had attempted a bodily encounter.

"Bradley, the counsel for Surratt," wrote the *New York Herald* on July 4, "disgraced himself and seriously damaged his client . . . by making a personal attack upon Judge Fisher in the court room after he had left the bench. Judge Fisher is an invalid and very feeble, and he was threatened with violence by Bradley, and had to be locked into a room by his friends to avoid an assault upon him by the pugilistic counsel and his son. The affair seems to have been unaccountably passed over by the court, but it was unquestionably a gross breach of privilege, and the lawyer . . . ought to be expelled from the bar."

It is unlikely that Bradley's unseemly behavior went beyond strong language; whatever it was, Judge Fisher did not overlook it, but very properly deferred action until the trial was over. ⁸⁸

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The most important of the witnesses held in reserve by the government, and the first to be examined after Riddle had filed his confidential report, was Henri B. Sainte-Marie, the former Zouave who had recognized Surratt as his comrade in Rome and who had lost so little time in denouncing him. Sainte-Marie now testified that Surratt had been in Washington at the time of the assassination.

. . . I asked the prisoner how he got out of Washington; if he had a hard time escaping. He told me he had a very hard time.

Q. How did he say he got out from Washington?

A. He told me he left that night.

Q. What night?

A. The night of the assassination, or the next morning, I am not positive.⁸⁹

This testimony, highly prejudicial to the accused because it placed him in Washington on the day of the crime, *was a perjury, and the government should have known that it was a perjury*; for the State Department had in its files a report from its minister at Rome, written on July 10, 1866, almost a year before, in which Sainte-Marie had made the following statement:⁹⁰

I . . . swear and declare under oath, that . . . when the event [the assassination] took place he told me *he was in New York*, prepared to fly as soon as the deed was done. . . .

This is the exact truth of what I know about Surratt. . . .

Sainte-Marie's statement appeared in Executive Document No. 9, ordered printed on December 10, 1866. Counsel for the defense should have been equally cognizant of it. To bank on its ignorance meant that the prosecution was taking a desperate risk; but under the circumstances it was probably deemed necessary to take it.

Why Sainte-Marie changed his testimony and now placed Surratt in Washington instead of in New York on the night of the murder is not a matter of public record, but the official correspondence bearing on it is interesting.

On July 20, 1866, Seward had advised Stanton that Sainte-Marie "would expect to have his expenses paid and some compensation made for his time. . . . His great desire seems to be to return to America and aid in bringing Surratt to justice."⁹¹

A year later, after giving the testimony desired of him, Sainte-Marie changed his tone. Writing to Grant, who was then Secretary of War *Ad Interim*, he said:⁹²

At the time of the assassination of President Lincoln, your predecessor, Mr. Stanton, offered a reward of \$25,000 for any information that might lead to the capture of J. H. Surratt. Subsequently the order . . . was revoked. A year ago, on my information and through the agency of General Rufus King, . . . J. H. Surratt was captured . . . Much to my astonishment, one of the first things I learned on landing . . . was, there was no reward . . . Surely the government . . . cannot think . . . mileage and expense . . . a sufficient remuneration . . .

The Judge Advocate General immediately rushed to the assistance of his docile tool. Writing to Grant on October 25, 1867, he twisted uncomfortably for a while, for he had to admit that the reward had been revoked. A way had to be found to compensate this witness who had so conveniently changed his testimony. But Holt was an adept at such matters.

"The general order," he wrote to the War Department,⁹³ "was clearly framed for the purpose of withdrawing the *specific* offer of the large amount named [\$25,000] . . . But that it . . . proposed to withdraw . . . a reward for information . . . cannot . . . fairly be implied. For if this be in the inference, it must be assumed that the government no longer desired to secure the capture of Surratt, . . . an assumption which . . . can hardly be entertained." And so, with tongue in cheek, Holt recommended to settle for \$15,000. The actual payment made to Sainte-Marie was \$10,000,⁹⁴ a respectable sum for one who had said in 1866 that he was prompted only by the loftiest motives.

When Captain William Jeffers of the *Swatara* testified before the Judiciary Committee of the House on February 20, 1867, he gave his opinion of Sainte-Marie, who had been his passenger, in the plain language of an honest sailor.⁹⁵

"I have . . . the utmost contempt for Ste. Marie," he said.

By the time the prosecution had finished its testimony, the newspaper controversy about the trial had reached fever heat. The *Columbus Crisis*, a Democratic paper, expressed its feelings in unrestrained terms.⁹⁶

"When Mrs. Surratt was tried for treason, and hung for nothing, by a *coterie* of military murderers," it shouted, "this journal . . . protested . . . The only response . . . was a howl through a loyal sweat-rag here, calling upon a mob to tear down our office . . . Protests against the manner of the trial, which was a dishonor to a whole people—objections to the verdict, which was an outrage upon civilization—were of no avail . . . The mighty Government, administered by suborners like Stanton and Holt, . . . was vindicated. . . ."

The *Crisis* then referred to the military judges who had hanged Mrs. Surratt as "epauletted assassins".

The *Dayton Empire* joined in the protest of its contemporary, but the *Cincinnati Commercial*, on July 6, took the opposite side. The sympathizers of Surratt, it wrote, were squirming and, seeing the evidence piling up against the defendant, began raising loud lamentations over his "dear departed mother." Booth apparently "merely shot an Abolitionist giant in the back, in a perfectly chivalric manner, . . . and was . . . killed . . . as if he were a mad dog. Sad, was it not?"

But even the *Commercial* deprecated the wisdom of military trials; the effect would have been far more wholesome, it opined,⁹⁷ if the testimony had been produced in a civil court rather than before "a parcel of generals." There was, after all, some doubt whether Mrs. Surratt had been justly hanged, and "the evidence taken in the Surratt case does not tend to the removal of that doubt. . . ."

Even witnesses were in a frenzied frame of mind. Wrote the *Baltimore Sun* of July 17:

After the Surratt Trial had ended to day Dr. McMillen and Lewis J. Wiechmann, two of the witnesses for the prosecution, met Lewis J. Carland, a witness for the defense, at the corner of Fifth Street and Louisiana Avenue, and they censured him for the evidence he had just given. While they were standing there Hall Colgate, a boy messenger in the employ of Mr. Merrick, one of the counsel for the defense, approached and was rudely accosted by both Wiechmann and McMillen. Colgate retorted by calling them perjured scoundrels, and followed the words with blows administered first to one and then to the other. Neither of the witnesses offered resistance, but moved away from the scene of the collision.

Some writers noted that after a week or so of testimony for the prosecution, Surratt was showing signs of strain. A correspondent for the Boston *Saturday Evening Gazette* who signed himself Peter Brown, observed: ⁹⁸

The prisoner grows thin and nervous. Whilst the lawyers argued and the judge deliberated, he . . . found time to talk with friends, and to laugh sometimes . . . He doesn't even smile now, but . . . sits with twitching lips and eye fixed on the witnesses—scarcely turning once to look upon the crowd, and speaking with nobody but his brother and his counsel.

Surratt had good reason to be worried. Although the prosecution had not scored heavily against him, it was plain that he was fighting against many hidden foes who had unlimited resources and no scruples about using them. It remained to be seen how his own counsel would proceed to prove his innocence, now that their turn was coming.

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The Defense

The government rested its case on July 6. It had become more plain than ever that the crux of its accusation lay in the disputed presence of Surratt in the capital on April 14, 1865.

"His guilt," said the Springfield (Mass.) *Daily Republican* on July 9, "in the minds of the general public, if not the jury, hinges upon whether he was in Washington or not on the day of the assassination. . . . The attempt of the prisoner's counsel is to show that Surratt was not in Washington on the 14th of April, and that the witnesses for the government are either perjured or mistaken. . . ."

There were probably few dissenters from this clear-cut presentation of the case.

To combat the allegation that their client had been in Washington on the day of the assassination, Surratt's lawyers were not satisfied to show that the evidence adduced by the government—so far as it was not too vague to be considered seriously—was based partly on mistaken identity and partly on fabrication. They were anxious to show where Surratt really had been, and in doing so they had truth on their side. For the truth as it appears today from all available sources was that he had been in Elmira, New York, on the 13th, 14th, and 15th of April. Many years after the trial the district attorney himself practically admitted this fact.¹ Yet, the easiest way to prove it was found to be inexplicably blocked. Mr. Bradley, junior, in his opening speech, made a veiled accusation that the evidence relating thereto had been willfully done away with.

"Now, gentlemen," he said, "I state to you he registered at that place [Elmira], but I state also that the register of that hotel

. . . has most mysteriously disappeared and cannot be found, and even the proprietors and servants of that hotel are scattered in every direction. . . . I do not charge these gentlemen with it. I speak of the government as a government; but certainly they ought to be able to satisfy . . . their own consciences, as to whether they can escape the responsibility of that knowledge. . . .”²

Fortunately, the defense had at its disposal other means and witnesses to substantiate its case.

A merchant tailor named Charles Stewart had seen Surratt in his Elmira store twice, either on the 13th or on the 14th. A Mr. Cass, also owner of a clothing store, swore to having talked with the prisoner on the 15th. He was sure of the date because the news of Lincoln's death had just come through, and he had discussed the subject with the prisoner.

No amount of questioning made the witness change his testimony.

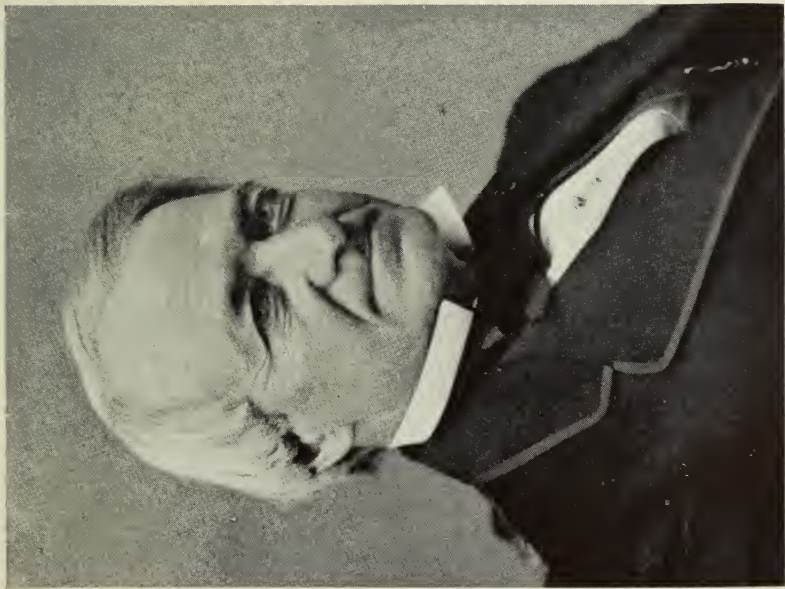
“Mr. Cass,” he was asked, “. . . what is the basis of your opinion that this is the man you saw in the store?”

“Well,” Mr. Cass replied, “. . . the minute I saw him I recognized him . . . I did so before I got near him. I saw at once that he was the man I had seen there.”³

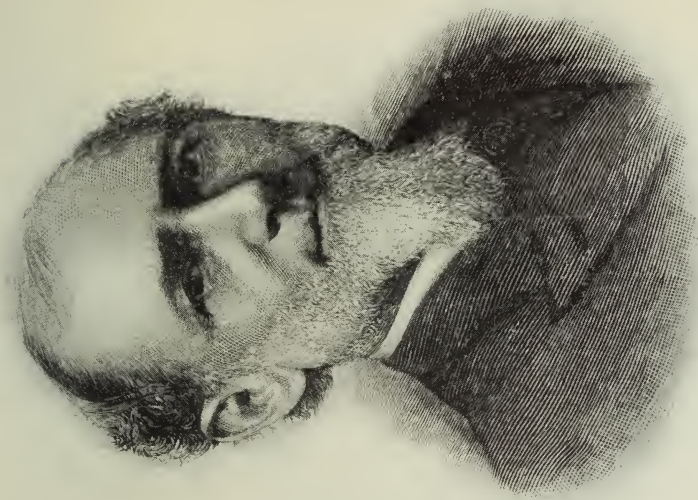
There were other corroborating witnesses. An alderman of Elmira who had also acted as bookkeeper for a clothing store experienced no difficulty in recognizing Surratt.

“I have no doubt but that is the same man,” he stated, and fixed the time of the meeting as between the evening of April 12 and the morning of the 15th; one of the proprietors had been in New York City during that interval and it was then that the accused had called.⁴

A cutter in the same establishment also identified Surratt without hesitation. He had seen him on both the 13th and 14th and had talked to him for twenty minutes. Surratt's first visit had



JOSEPH H. BRADLEY, leader of the defense in the Surratt
Trial.
(*L. C. Handy Studios, Washington, D. C.*)



RICHARD T. MERRICK, of counsel for the defense.
(*L. C. Handy Studios, Washington, D. C.*)

been on the 13th *in the afternoon*, as Pierrepont brought out under cross-examination.⁵ This exact designation of the time was later to become an embarrassing point for the cross-examiner.

Having established with a fair degree of success the defendant's presence some three hundred miles away from Washington, Surratt's lawyer could have shown, and did endeavor to show, why he had been in Elmira. It was here that the protecting hand of Judge Fisher again saved the government from a dangerous thrust.

The man who had induced Surratt to go to Elmira was Edwin G. Lee, a general in the Confederate army, who was ready to testify that the accused had been sent to Elmira in order to sketch the prison camp there. In a written abstract of his pending testimony, which was handed to the judge, General Lee stated that Surratt had "made his report, and brought back with him what purported to be rude sketches of the said prison and its approaches . . ." ⁶ Pierrepont stated that there were several portions of this statement to which he did not object. The judge, following Pierrepont's wishes, ruled that the proper way was to place the witness on the stand and put questions to him which could be considered and decided upon as they were asked.

The result was that practically every question asked of General Lee was objected to; the objection was invariably sustained, and no facts of importance were elicited. Lee's recollections appeared in contemporary prints, but were not made part of the official trial record as published by the government.

The *Kansas City Journal* ⁷ quoted Surratt as stating that he could have proven his whereabouts on those critical April days of 1865 through another witness, if his sense of honor had not interfered with his desire for freedom. He claimed to have met a Union colonel in Elmira who, in the course of a short time, had become heavily indebted to him. Surratt had used this relation-

ship to gain permission for making sketches of the prison camp in the interest of the Confederacy.

"My counsel demanded," so Surratt maintained, "that I give them the name of the . . . colonel . . . , but I refused. It would have ruined him, although it would have caused my acquittal. My lawyers threatened to throw up the case . . . , but I declined."

There would have been another way to show Surratt's presence in Elmira beyond a doubt. The prisoner had telegraphed to Booth from there on the morning of April 15. If the files of the telegraph office would show Surratt's handwriting, his case was won.

"But where is the telegraph operator? Where are the records of the office?" Mr. Bradley demanded to know, in his summing up of the case.⁸ Surratt himself, in his Rockville lecture, was more explicit.⁹

. . . The dispatch I sent to Booth from Elmira it was . . . impossible to find. We had the operator at Washington during my trial, but he said the original was gone, though he had a copy of it. In telegraph offices they are compelled to keep all despatches filed. Of course we could not offer this copy in evidence, because the original alone would be accepted, and that had been made away with. . . .

It was all in line with the destroyed register of the Elmira Hotel, Surratt intimated.

"The circumstance involves a mystery of villainy," he concluded, "which the All-Seeing God will yet bring to light." Surratt's pious hopes notwithstanding, the riddle of these missing items has never been cleared up and must remain even now a matter of conjecture.

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In the meantime, the daily press kept up a lively discussion as to the probable verdict of the jury, although the trial was far

from ended. The Springfield (Mass.) *Daily Republican* on July 18, thought that "those who have studied the matter most carefully are most firmly satisfied of Surratt's guilt and of the sureness of his conviction." When the defense testimony was all in, however, its editor was no longer so sure of himself.

"In spite of Mr. Carrington's efforts and invective," it wrote two weeks later, on July 31, 1867, "Surratt's conviction is not . . . expected in the best informed circles at Washington, and the *Chronicle* of that city even says that his appointment to a department clerkship next week is more probable." The cause of this outcome, so the Springfield paper concluded, was that two jurymen were "too firm Catholics to convict one of their own faith in a Protestant court, and others fear the influence which their . . . verdict of guilty might have on their local trade and social standing." This was singular argumentation, for these alleged obstacles to what the *Republican* considered justice had existed all the time, and had not suddenly developed after its first forecast.

The New York *World*, on the other hand, believed that Surratt had barely a chance to overcome the heavy odds formed by an alliance of the district attorney's office with the mighty War Department.

"The accused," it wrote on July 9, ". . . has not the ordinary and equitable chances of an accused person in a criminal court. It is necessary to convict him in order to vindicate the government . . . If Surratt should be acquitted the War Department would be convicted of murder and the subornation of perjury. . . . It is not merely . . . Surratt that is on trial; the War Department and its famous Military Commission are on trial. . . ."

Twenty years later one of Stanton's confidential clerks admitted that the resources of the War Department had been arraigned against Surratt.

"It is only fair to say," he wrote, "that he [Stanton] did take

an active part in the . . . trial of her [Mrs. Surratt's] son . . ."¹⁰

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At this time one can picture the prosecuting attorneys holding another anxious conference. Surratt's presence in Elmira had been so clearly established that the theory of his appearance in Washington on April 13, which the assistant district attorney had claimed as a fact in his opening speech, could no longer be maintained. It was therefore decided to make a bold move. Surratt's absence from Washington on that day was to be conceded. His presence in Elmira on the 13th would be admitted, and an attempt made to bring the accused into the capital on the 14th. If only the colored barber had not stated that he had shaved Surratt at 9 o'clock in the morning! All the other witnesses had claimed having seen him later in the day, thus giving the government more elbow room. But for this one now highly undesirable witness, the accused could have been brought to the scene of the assassination in ample time to participate in it. However, there was no choice left, and the difficult task was immediately taken in hand.

Train service from Elmira to Washington led first to Williamsport, on the north bank of the Susquehanna river, a distance of seventy-eight miles. The passengers then crossed a bridge there, going to Sunbury, Pennsylvania, and from there to Harrisburg. Leaving Harrisburg, they traveled to Baltimore, and went from there to Washington. The time-table on April 13 was about as follows:¹¹

Leave Elmira, N. Y.	Passenger 8:00 a.m.
(No other trains scheduled)	Freight 8:05 a.m.
Arrive Williamsport, Pa.	1:30 p.m. ¹²
Arrive Sunbury, Pa.	3:25 p.m.

Arrive Harrisburg, Pa.	6 p.m.
Arrive Baltimore, Md.	7 a.m.
Leave Baltimore	7 a.m.
Arrive Washington, D. C.	8:43 a.m.

If Surratt had left Elmira on the morning of April 13—everyone was now agreed that he had been in Elmira on that day—then the case for the prosecution could still be saved.

Unfortunately for Pierrepont and his assistants, the trains had not been running on scheduled time on the 13th of April. Freshets had washed out roadbeds, traffic was delayed and, worst of all, the Susquehanna bridge at Williamsport had been washed away, so that passengers had to be ferried across. Instead of leaving Williamsport at 1:30 p.m., the travelers had to wait over until 10 o'clock in the evening, made Sunbury at 12:13 a.m. and did not reach Harrisburg until 2 o'clock in the morning. The railroad records showed that on the morning of the 14th they actually arrived in Baltimore at 7:25 a.m.

This was a fatal blow for the prosecution; for the next train out of Baltimore did not leave until 8:50 a.m., arriving in Washington at 10:25 a.m.¹³ No matter how quickly Surratt might have hurried to the barber shop, he could not possibly have been shaved there around 9 o'clock in the morning.

The perplexed government lawyers, caught in their own web, sought frantically for a way out of their dilemma. They discovered that a special freight train with a caboose had left Elmira about 10:30 a.m. Surratt might have been in the caboose; but as it happened, the superintendent of the road had been riding in it himself, and he could not recall any other passenger. What was worse, he was sure he had never seen Surratt before.¹⁴ Nothing daunted, Pierrepont clung to the argument that the prisoner had been somewhere on that train. Unwilling to leave him in Williamsport until night, he theorized that Surratt had

crossed on the ferry alone, had then caught some repair train which was shuttling back and forth on the road to Sunbury and had somehow reached Harrisburg to catch the freight train south. In support of his contention, he brought forth the ferryman, a person by the name of Drohan, who claimed to recognize Surratt as a man whom he had ferried across the Susquehanna on April 13, 1865.

According to Merrick, Drohan looked three yards away from the prisoner when he identified him.¹⁵ On cross-examination it developed that Drohan had been brought forward by Richard Montgomery, the same individual who had been so pliable a witness in the conspiracy trial, a man who had been convicted of robbery in the New York courts and whose former testimony had been branded as perjured. The government must have been in hopeless straits to stoop so low as to engage his help. When Bradley realized through whose agency Drohan had been called, he scorned to cross-examine him.

In spite of all squirming, however, not even the 4:30 p.m. freight train from Sunbury, which Surratt might have reached by some of the strange modes of travel attributed to him, could get him to Baltimore in time to connect with the early morning train to Washington. For that particular freight train from Sunbury did not run to Harrisburg, but to Marysville, arriving there at 9:20 p.m.; and no train of any kind left Marysville after that until 8:05 in the morning.¹⁶

More difficulties began to mount up for the prosecutors. They had now admitted Surratt's presence in Elmira on the 13th, but the only witness who had seen him so early in the month had seen him in the afternoon. That, of course, would not do. Surratt simply must have left there in the morning if he was to arrive in Washington on the 14th, for there were no afternoon, evening or night trains out of Elmira. As if these impediments were not enough, the indefatigable defense now showed that

Surratt could not have reached Elmira on the 13th in the morning at all, if it was admitted—as it was by all parties—that the prisoner had still been in Montreal on the 12th at noon.

The district attorney and his aides were now caught as in a vise by testimony of their own choosing which they had introduced earlier. If they claimed that Surratt had been in Washington on the night of April 14 and was seen in Elmira even as late as the 15th, they would have clashed with sworn statements of their own witnesses, proving that all trains leaving Washington for the north on the morning of April 15 had been held up at the Relay House, a junction point near Baltimore, and that their passengers could not have reached Elmira before evening of April 16.¹⁷ On the other side was testimony showing that Surratt had left Montreal for New York on April 12 at 3:30 p.m. This rather unnecessary evidence, produced by the prosecution at the beginning of the trial, now rose against it as an embarrassing and insurmountable obstacle.

“How do you get him to Washington?” Merrick unmercifully twitted his adversaries. “He left Montreal, according to the testimony of your witnesses, at 3:30 on the afternoon of the 12th. They put him on the New York train. . . . Leaving Montreal at 3; Rouse’s Point at 5:45; St. Albans, 7:25; . . . Albany 5:45 [a.m.]—sixteen hours from Montreal. . . . He leaves Albany at 7 o’clock, Syracuse at 1 p.m., Canandaigua at 4:52; from there to Elmira in three hours—say 8 o’clock. . . . He got to Elmira *the night of the 13th. There is no night train running from Elmira . . .*”¹⁸ The government had not known that there was no night train.

Whether or not the attorneys for the government felt that their case was toppling, there is no way of knowing. Certain it is that they found no answer to this argument. Pierrepont replied to it in his plea with questionable logic.¹⁹

If it is true that a man was here in Washington at a given time, and it is true that he was in Montreal at another time, you may be entirely sure that somehow or other he got from one place to the other place. . . . It is not worth while for us to puzzle our brains . . . to know how he did it . . .

This statement must have sounded somewhat amusing to the jury which had listened to a profusion of train schedules cited by Pierrepont's own witnesses day after day.

Carrington was even more evasive on this delicate point. When he mentioned Surratt's presence in Washington in his address to the jury, Mr. Bradley interrupted him and asked in what time the prisoner could have come to the capital from Elmira.

"I do not recollect about that," the district attorney replied, and quickly changed the subject.²⁰

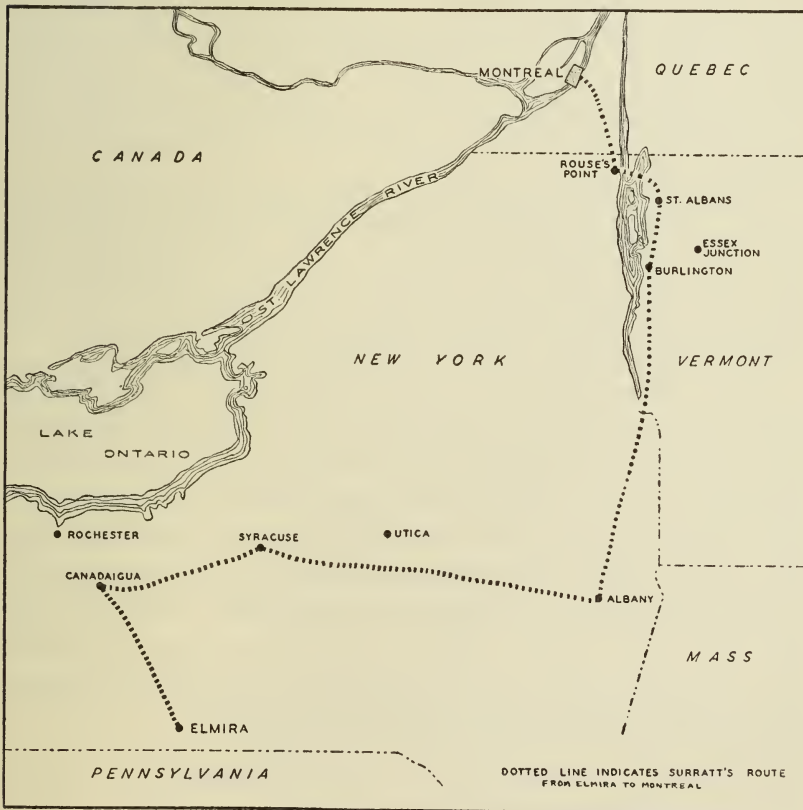
At this stage of the trial, the lawyers for the prosecution probably held still more worried conferences. Things had not gone well at all. None of the government witnesses who claimed to have seen Surratt in Washington on April 14 had talked to him, and most of them had identified him without any degree of assurance. Furthermore, there were a few in their ranks whose reputations were not of the best. On the other hand, the witnesses for the defense had engaged in long conversations with the prisoner and were men of the highest standing and unquestioned loyalty.

There was one more hope left for Pierrepont and his associates. The presiding judge could be expected to give them all the advantages that lay within his power. They did not have to wait long for a practical demonstration of his honor's judicial bias.

The defense had tried to establish the whole course of their client's travels immediately after he had heard of the assassination. It appeared that he had left Elmira on April 15 for Canan-

daigua, where he had stopped at the Webster House under the name of John Harrison. His name was plainly recorded in the register, and there was no doubt regarding his handwriting. But Judge Fisher ruled that the register of the hotel in Canandaigua could not go before the jury.

"It is said," he decided, "that the name 'John Harrison', standing on that register for the 15th April, 1865, having been sworn to . . . as the handwriting of Surratt, it ought to be admitted as evidence . . . that he was present at Canandaigua at that date. But . . . it is evidence made by himself, and, although it might



be put in evidence against him . . . , yet it cannot be used as evidence in his favor . . . The name could as well have been written by him in Canada, or Rome, or Egypt, as in Canandaigua. The book . . . could have gone to Canada and back a hundred times; or the prisoner, during his stay there in Canada, could have gone to the book just as often. . . .”²¹

Referring to this ruling three years later, Surratt commented on it with disdain.

“My name was signed midway of the hotel register,” he declared, “with six other parties before and after. . . . It was a likely idea that the proprietor of a hotel would leave a blank line . . . for my especial benefit! . . . Had Judge Fisher been one of the lawyers for the prosecution, he could not have worked harder against me than he did. . . . the register was ruled out by Judge Fisher, because . . . if he admitted it my trial was at an end.”²²

Mr. Bradley then made an attempt to prove Surratt’s presence in Canandaigua through the night book of the hotel; but here the pages from April 12 to April 20 had been deleted, no one knew by whom; they would have shown positively who had stayed at the Webster House during those nights.²³

More disappointments for the prisoner were in store for him. The defense introduced a physician named Augustus Bissel with the intention of showing through him that the accused had been in Elmira on the 14th of April. Both gentlemen had stayed at the Brainard House, and Doctor Bissel swore that he had seen the prisoner there. But on cross-examination this doctor proved to be a doubtful asset. It appeared that medicine was only a sideline with him. He ran a saloon and had also become interested in some patent rights. As the testimony proceeded, the witness became the laughing-stock of the courtroom.²⁴

Q. What are you doing in that . . . outside business?

A. We are developing it.

Q. What do you mean by that? . . .

A. We have got one patent upon the market.

Q. What one patent?

A. It is a patent chamber pot.

Defense counsel now found an opportunity to prove that Surratt had not, as had been intimated, deliberately left his mother and allowed her to suffer the death penalty in his place. A man named Stephen F. Cameron, who once had been in the Confederate secret service, found himself at Montreal at the time Surratt arrived there. He had at first felt more like giving up the fugitive than protecting him, because he thought Surratt should have gone to Washington to help his mother. But he was told that Surratt was "in so secluded a place that he knew nothing of the progress of the case, and was sedulously kept in ignorance of it by the gentlemen who surrounded him, who kept saying: 'Everything is going on well. You know your mother is innocent; they cannot murder her; and she will be finally saved, if you keep quiet.' " ²⁵

A priest named Father Boucher then took the witness stand to add the information that Surratt had been in poor health at the time of the conspiracy trial.

He was in very poor health; he had fever and ague. The first time he remained at my house he had a disease once or twice a week, and the rest of the time he remained in Canada he had it every other day. We used to call it the "chills". . . . He remained in bed whole days at a time. At such times he could hardly move. He was very pale and weak. Sometimes I was apprehensive that he might not live.²⁶

In spite of this statement, which remained unchallenged, Riddle inserted a paragraph into his *Recollections* which is remarkable in more ways than one.

"On the trial," he declared, "it came out that, after the con-

viction of his mother by the military commission which tried the conspirators, the Government offered that if John H. would surrender himself to the United States, his mother should be unconditionally pardoned. He was then secreted in Baltimore, and we were morally certain, from the proof, that this was conveyed to the wretched son, whose only response was flight to Rome . . .”²⁷

There was not one syllable of testimony in either the conspiracy or the Surratt trial which furnishes support for Riddle's assertions. Riddle had taken no part in the prosecution of the so-called conspirators against Lincoln, and what inside information he had must therefore have come to him from his associates in the Surratt case, or more likely from Judge Advocate General Holt.

Even the government attorney, Pierrepont, did not question the truth of Surratt's whereabouts between April 18—his arrival in Montreal—and the day of his sailing on the *Peruvian* the following September.

“John Harrison,” Pierrepont said in his argument, “entered his name . . . on the 18th day of April, 1865, in the register at St. Lawrence Hall [Montreal]. . . . we all agree upon this fact. Now let us start from this point . . . He passed from the hotel . . . He fled to the house of a man named Porterfield, and there for a few days remained in concealment. . . . Where does he next go . . . ? . . . to a little place called Libiore . . . and was there concealed, the priest tells you, until the following July. . . . Then what did he [the priest] do? He took him [Surratt] . . . to the house of another priest . . . and there he is concealed . . . until the following September . . .”²⁸

If Riddle, in view of these uncontradicted facts, spun a totally different yarn in his book, he either deliberately falsified the story, or else had been fed surreptitiously with propaganda by Holt. In either case, Riddle's *Recollections* present a striking

illustration of how history may be perverted for partisan purposes.

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Of the witnesses who had testified at the conspiracy trial and were now called upon to repeat their testimony, the most outstanding was Louis Wiechmann. Since his detention in 1865 this young man had been urged to produce more and more facts which would bear against Mrs. Surratt. He had been alternately threatened and cajoled by the Bureau of Military Justice and had complied to the best of his ability.²⁹

After the conspiracy trial Wiechmann had made overtures to the family and friends of Mrs. Surratt, pleading that he had been forced to turn state's witness in order to save his own life. Everyone he approached, though, had turned away from him with loathing.³⁰ Thereupon he became venomous and bethought himself of some additional incriminating episodes so as to fortify his position with the government from which he hoped to—and eventually did—receive a reward in the form of a minor position. These new accusations Wiechmann laid down in an *ex parte* affidavit dated August 11, 1865, setting forth, among other things, the following incidents which he claimed to have recalled since the end of the trial.³¹

Mrs. Surratt, observing some pickets along the road while traveling with Wiechmann to Surrattsville on the day of the assassination, had hailed an old farmer and asked him if the soldiers would remain there all night. On being told that they were withdrawn in the evening, she had said she was glad to know it.

She had confided to her boarder on that occasion that Booth was crazy on one subject and that she was going to give him a good scolding because of it.

Mrs. Surratt had asserted that she was anxious to be at home at 9 o'clock, as she had an engagement with a gentleman at that time. Upon being asked whether it was Booth, she had made no reply.

When about a mile from Washington, seeing the city in a flood of light, Mrs. Surratt had remarked that she was "afraid all this rejoicing will be turned into mourning . . ."

The expected gentleman had duly called at 9 o'clock. "It was, as I afterward ascertained," Wiechmann wrote, "Booth's last visit . . . She was alone with him for a few minutes in the parlor." After that she had become very nervous, and had hurried Wiechmann and the young ladies to their rooms.

When the detectives had knocked for admission about 3 o'clock in the morning, Wiechmann's landlady had exclaimed: "For God's sake, let them come in! I expected the house to be searched." And Anna Surratt, "almost frantic," then had cried out: "Oh, Ma! just think of that man's (John W. Booth) having been here an hour before the assassination! I am afraid it will bring suspicion upon us."

When Wiechmann had made the affidavit which embraced all these alleged incidents, he hardly expected that he would have to appear on the witness stand once more to defend these statements under oath. It would have been safer for him had he confined himself to episodes which could not be verified, such as conversations between himself and Mrs. Surratt to which there had been no witnesses. But he had now definitely gone on record, his affidavit having been printed in Pitman's official report, and when the Surratt trial opened he had to throw in his lot with the prosecution, this time not to save his life, but to protect his reputation and perhaps his liberty.

Pierrepoint and his associates knew, of course, that Surratt's attorneys would subject Wiechmann's afterthought-statements to a fierce attack, and therefore chose to bring them out them-

selves on direct examination. By this procedure they took as much wind out of their opponent's sails as they could; they failed, however, to prevent serious injury to the testimony of their star witness.

The story of the pickets was the first the defense delved into.³² The driver of the stage coach on the Surrattsville route testified that there never had been any pickets on this road beyond the line of fortifications; if there had been any he surely would have seen them. The government could easily have shown from the records of the War Department whether pickets had been on the road; but the statement of the coachman remained uncontradicted. The first episode related by Wiechmann therefore stood refuted.

The alleged conversation between Mrs. Surratt and Wiechmann about punishment of the wicked capital and Booth's nebulous *idée fixe* had been held without witnesses and could not be successfully combatted. But Wiechmann also had stated that his landlady had wanted to be at home by 9 o'clock in order to meet a gentleman, and that this late visitor had been the assassin. Here the defense met the witness with overwhelming testimony, showing that his story was a pure and malicious fabrication.

Mrs. Holahan, the lady who with her family had occupied Mrs. Surratt's choice front room, testified that it was with her that the landlady had made the engagement. It had merely been an engagement to go to church. Some fifteen or twenty minutes after the return of Mrs. Surratt she was reminded of her promise, and the two women immediately started out. Then an unforeseen circumstance intervened.

"I remarked," said Mrs. Holahan, "that it was a heavy, disagreeable night, and suggested that we did not go." So they returned to the house.³³ *The suggestion to cancel their plans to attend the Good Friday services had come from Mrs. Holahan and not from Mrs. Surratt.*

Wiechmann had stressed the point that his landlady had been extremely nervous after their return from Surrattsville; now this part of his affidavit was likewise proven to be imaginary.³⁴

"Did you observe anything in her [Mrs. Surratt's] manner," Mrs. Holahan was asked, "to . . . attract your attention?"

"No, sir," was the reply; "I did not; she seemed as calm as I ever saw her in my life."

"You observed no nervousness . . . ?"

"None at all."

Miss Olivia Jenkins, a niece of the dead woman, confirmed Mrs. Holahan's statement.³⁵

"She [Mrs. Surratt] seemed the same as usual. I never saw any excitement about her whatever."

Q. Did you observe her walking up and down the room in a nervous, excited condition?

A. No, sir.

Q. Were you in the parlor all the time Mr. Weichmann was there that night?

A. Yes, sir.

The most vital blow to Mrs. Surratt had been dealt her by the insinuation that she had been visited by Booth in the evening of April 14, about one hour before the firing of the deadly bullet. Now this accusation, brought out into the open, dissolved into thin air.

This is what Miss Jenkins said regarding the mysterious night caller:³⁶

Q. Did any one ring the bell while you were at the table?

A. Yes, sir.

Q. Who answered the bell?

A. Miss Anna Surratt.

Q. Did you know who called?

A. A gentleman by the name of Scott, of the navy; he left two papers for me. . . .

Q. Who left the room first, you or Mr. Weichmann?

A. Mr. Weichmann. . . .

There had been only one ring of the bell while the boarders were assembled around the supper table.

Q. Was the bell rung at any other time while you were at supper?

A. No, sir; I did not hear it. . . .

Q. Did you hear any footsteps going into the parlor while you were at supper?

A. No, sir.

Miss Honora Fitzpatrick, another boarder, corroborated these statements in full.³⁷

Q. Did Mrs. Surratt leave the table at any time that night . . . ?

A. Not to my knowledge.

Q. You were there all the time . . . ?

A. Yes, sir. I do not remember her leaving. . . .

Q. Who answered that bell at that time?

A. It was Miss Anna Surratt.

One by one Wiechmann's tales were thus exploded. His open boast that he intended to do all he could to aid the prosecution further helped to throw suspicion on his stories. Anna Surratt's alleged frightened remarks to her mother were flatly denied by Miss Jenkins who had been present.³⁸

Q. Did you at any time hear Anna say anything like this; "O, ma, all this will bring suspicion on our house; just to think of that man having been here an hour before the murder?"

A. No, sir.

In spite of his counsel's apparent victory over Wiechmann, Surratt probably failed to receive great benefit from it. The fault lay with the irascible, ill-tempered Bradley, who badgered the witness to a degree which must have aroused the sympathy of the jury. Moreover, Wiechmann met the attacks of his cross-

examiner with admirable skill. All his testimony was given slowly and with the utmost deliberation,³⁹ and at times he managed to inflict quick counterstrokes on his tormentor. At one time, for instance, Bradley was endeavoring to show the unreliability of the witness regarding a certain date.

Q. That was on the 2d of April?

A. Yes, sir.

Q. How do you fix that date?

"As being after the first of April, and . . . before the third," was the dry repartee.⁴⁰

The greatest mistake Bradley made was in trying to confuse the witness on unimportant matters instead of utilizing his numerous chances to drive deadly shafts through weak spots in Wiechmann's armor.

In the earlier trial,⁴¹ Augustus S. Howell, a blockade runner, had stated that Wiechmann had told him "that his sympathies were with the South . . . I believe he said he had done all he could for that Government—referring to the South. We had some conversation in regard to the number of prisoners on hand, and he stated to me the number of Confederate prisoners the United States Government had on hand . . . I doubted it at the time, but he said . . . that he had the books in his own office to look at. . . . he expressed himself as a friend of the South, as a Southern man or a secesh sympathizer would."

Howell came under discussion again in the Surratt trial.⁴²

"You knew he was a blockade runner?" Wiechmann was asked.

A. Yes, sir.

Q. And you had a conversation with him with regard to the number of prisoners and so on. . . .

Here was an opportunity made to order. Why had not Wiechmann denounced the blockade runner to the govern-

ment? As a clerk in a government office it would have been his duty to inform the authorities. He had not done so, and Bradley should have hammered the witness on this point. Instead he turned to different matters.

At another time it was brought out that Wiechmann had wanted to go to Richmond to finish his studies for the clergy.

Q. You were very anxious to go to Richmond?

A. Yes, sir, for that purpose.

Q. . . . Didn't you tell him [Howell] all your sympathies were with the South?

A. O, I have talked secesh very often . . . for buncombe . . .⁴³

Why did Bradley fail to follow up such a promising lead? It may have been proper to talk "secesh" in war times just for fun, or to endeavor to go to Richmond for obscure reasons, but it was a serious matter for one who was employed by the War Department.

All that Bradley succeeded in doing was to force Wiechmann's admission that he had been wrong in some dates. Wiechmann conceded these errors in a pleasant manner and thereby retained the upper hand throughout in this contest of wits.

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The amount of testimony offered during the trial was tremendous. Much of its relevancy was doubtful, and its validity could only be partially admitted on the grounds that Surratt was a member of a conspiracy, and that what any one conspirator did concerned every other member to an equal degree.

A restaurant keeper swore that Booth had taken a drink before he had shot the President.⁴⁴ This certainly had no bearing on the Surratt case. The conductor of a train to Canada thought he recognized the prisoner as one of two blind passengers he

had carried a few days after the assassination.⁴⁵ No one denied that Surratt had gone to Canada, and this testimony therefore was pure waste. A mail carrier reported that in 1863, Mrs. Surratt had once said that she would give anyone \$1,000 to kill Lincoln;⁴⁶ but Mrs. Surratt was not on trial. Much territory already covered in the conspiracy trial was retraversed, with but slight variations.

Some interest might have been provided by the cipher letter which had been picked up by a Mr. Duell on the ocean waves at Morehead City, N. C., and which had provoked a heated discussion two years before. This letter was so evidently spurious that its presentation before the shrewd Bradley might have furnished a sensation. The document, supposedly in the water for six weeks, showed no signs of exposure. The government tried to introduce this evidence through a transcript, but Bradley and Merritt were on their feet in an instant.

"We want to see Mr. Duell," shouted one, and,

"We want to have him here in order that we may talk to him," seconded the other.

The following day the district attorney stated "that he had used every exertion to procure the attendance of Mr. Duell, . . . but for some reason he was not in court."⁴⁷

Mr. Duell's reason, it would seem, was fairly obvious.

People who had seen Atzerodt at various places appeared on the witness stand. Life at Mrs. Surratt's rooming house was described in minute detail, and the audience was edified by the knowledge that the boarders there always had turkey on holidays. Horses of all kinds and descriptions were figuratively marched through the courtroom. The scenes at Ford's Theatre and the slaughter at Secretary Seward's house were retold in every gruesome detail. A ship's surgeon related the story of Surratt's conversation with him at great length, but to no great purpose. A gentleman was asked to blow on a whistle and state

whether it sounded like the tune of a whistle he had heard two years before, which probably made him feel a trifle foolish. In the end, one of Paine's landladies from Baltimore appeared and informed an uninterested court that she had boarded the outlaw for six weeks and "gentlemen were passing backwards and forwards in the house,"⁴⁸ whatever that was supposed to mean or imply.

Interspersed or following each other without plan or system were character witnesses, scores of whom were cited by both sides. They swore that they would or would not believe what someone else was saying, had said, or would say in the future. Most of them contradicted each other radically. To physicians it was usually intimated by sarcastic cross-examiners that they were abortionists. Harmless citizens were suspected of being recipients of unduly high witness fees, and the prosecution questioned the war records and loyalty of everyone who made statements it did not like. Bradley himself, in his final speech to the jury, remarked cynically, "I rather think they could go into the city of Washington today here and get fifty men who would say they would not believe me on oath."⁴⁹

Add to this tiresome performance the unbearable heat of a midsummer in the capital, and one may surmise that it was a thoroughly exhausted jury that finally retired to decide the fate of John Surratt.

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The last move was now with the prosecution, and there was only one move left. If the prisoner had not been in Washington on April 14, the jury would not find him guilty of murder. That much could be foreseen. "Constructive presence", no matter how well explained by the judge, would mean nothing to laymen. A new inspiration was needed, and in time it came

forth. If Surratt could not be convicted of murder, it was still possible to convict him of treason, although the crime of treason had not been made part of the indictment. If allegiance to the Confederacy was treason, a conviction by the jury was at least a possibility. If it was not, enough prejudice could be stirred up to becloud the issue. There was yet time to emphasize this thesis in the final pleas. The prosecution had nothing more to lose.

When the district attorney began his speech to the jury on July 27, he was not long in developing this idea. "I shall endeavor," he exclaimed, "to present this case in a spirit of justice and fairness to the accused, but," he continued with a quick change of tone, "I shall speak of this traitor, murderer, and assassin, his associates in crime . . . as they deserve. . . . I contend there was a treasonable conspiracy of which the prisoner was a member." ⁵⁰

Feebly, Mr. Carrington pleaded that Surratt's presence in Washington had been proven, because the prosecution had produced thirteen witnesses, while the defense had brought forth only five witnesses to show his presence at Elmira. He then proposed a sort of fight between his Horatii against the defense's Curiatii. "They bring up three men; I send forward three champions to meet them. They die together. I have got a regiment . . . behind, and victory perches upon my banner." ⁵¹

When Mr. Bradley's turn came he countered with a simple story. Two men, he related, once appeared before a German Justice of the Peace in a controversy over their accounts. One produced a small book in which the accounts were written; the other produced a much larger book; whereupon the judge announced his decision that "dis book is a much pigger book zan dat book and you has your gase." ⁵²

Mr. Carrington, knowing the weakness of his argument, gave birth to a new thought, one that could have been conceived only

by a telepathic vision of what the judge's instructions to the jury were going to be.

"A juror," he declared, "who swears to decide according to the law, and departs but a hair's breadth from the instructions of the court . . . commits the awful and Heaven daring crime of perjury."⁵³

Into this novel theory Merrick tore with vigor and effect. "My learned brother on the other side," he commented, "seemed to feel that it was necessary to press you, gentlemen, very hard upon your obligation to follow the instruction of the court. I have never heard him say that before. . . . Why is he so solicitous in this case? . . . He told you . . . that . . . if you departed from the law so given you, you would be perjured. I tell you it is no such thing. If you find a verdict of guilty, and do not believe the party to be guilty . . . *then* you are perjured men, I care not what the court's instruction is. . . . The language [of the oath] is, 'And a true verdict give according to the evidence.' My learned brother has had that oath ringing in his ears for six years. . . . the responsibility is on the judge to . . . give you . . . counsel; not as mandatory . . . , but as advisory . . ."⁵⁴

When Judge Fisher came to this point in his instructions to the jury, he delivered a discourse which came close to a complete espousal of Carrington's unheard-of assertion.

"It is true," he said, ". . . that you have the power . . . to disregard the instructions [of the court] . . . A jury have the *power*, if they choose to exercise it, . . . that they will . . . decide upon the law and facts according to *their own caprice* . . . but such is not the purpose for which juries were instituted, *and they have no right so to act.*"⁵⁵

It would have taken no jury of supermen to interpret what the judge had in mind when he gave them these words to ponder and act upon.

Even before the district attorney opened his harangue to the jurors, counsel for the defense had sensed that, defeated in his attempts to show Surratt's participation in the assassination, counsel for the government would try to introduce the subject of treason into their closing arguments, for some of the evidence submitted clearly pointed that way. A strenuous effort was made in behalf of the prisoner to have it ruled out.

"Had they indicted him for treason," Merrick stated, "he would have had certain rights and privileges which under an indictment for murder he had not. . . . Would the counsel under the pretence of an indictment for murder claim a conviction for treason? . . . He [Merrick] did hope that the United States government would not bow its proud . . . head to the humiliation of attempting to trick a prisoner out of his life." ⁵⁶

Whereupon the court calmly ruled that there had been a plot against the United States government, and that evidence relating thereto could stand.⁵⁷ This left the door ajar for the prosecution to argue for treason and to arouse wartime passions. Carrington pleaded that "a conspiracy is formed here . . . to strike at the nation's life . . ." The prisoner, he said, had "struck at the nation's heart, but missed . . . and only killed a man." He had "aimed at the highest crime known, [treason] . . . but only killed a poor old man as he sat by the side of his wife . . ." ⁵⁸

There was no question that the trial had originally been one for murder only, but the argument of the prosecution to the jury was so intermingled with one for treason, and the appeals to war hatreds were so bold, that Surratt in reality had to defend himself suddenly on several fronts simultaneously.

It is small wonder that Mr. Merrick, in opening for the defense, was moved to use unusually strong words.⁵⁹

"The district attorney," he cried, ". . . asks for a renewal of all the animosities . . . Why has he done this? . . . It was to stir your hearts. . . . Shame on the United States! I blush to

see the United States attorney thus degrading his high office . . . but the United States did not happen to stand alone in this case. Others stood beside her. Other gentlemen who had within their hearts that rankling secret . . .” Plainly inferring that Mrs. Surratt had been railroaded to death, and that it was now necessary to drag the son to the gallows to justify his mother’s murder, he continued: “Others [besides Sergeant Dye] . . . had dreams by night . . . The case must be gained; innocent blood must again be shed to wash out the damning record of innocent blood already shed . . . Has conscience lashed the chief of the Bureau of Military Justice? Does memory haunt the Secretary of War?”

The prosecution was desperate, and ready to take desperate steps, Merrick hinted. “Whose discretion is broken down?” he asked, referring to the higher-ups he suspected. “Whose prudence is betrayed? Is there anybody else’s heart at which the vulture gnaws?”⁶⁰

Surratt, he declared, had fled, “not from justice, but from lawlessness.” He could have stood trial, but he could not have withstood tyranny.⁶¹

When the elder Bradley started his argument, he went his colleague one better. Throughout the trial he had clashed bitterly with Judge Fisher and probably knew that at its termination the wrath of the Court would be visited upon him. In full realization that Judge Fisher would uphold the government on all contested points, Surratt’s senior counsel gave to the jury in advance his opinion of the Court’s instructions.

“Your honor,” he said, “is to have the diadem and crown of glory of finding out what no man ever found before, what no man living under the common law ever knew—a law made for the case after the offence is committed.” And turning to the jury box, he continued: “Gentlemen, the charge in this indictment is the killing of Abraham Lincoln . . . and not . . . help-

ing the rebellion . . . I say . . . that . . . [if] a man be tried for that for which he is not put on trial, and of which he has had no notice, and new laws [are] invented to cover past offences—unless that is done, I say the man was acquitted more than a month ago, and the government knew it.”⁶²

It was up to Mr. Pierrepont to make the closing argument. A tremendous crowd listened to his oratory, among whom could be seen such notables as General Grant, Major General O. O. Howard and Major General E. R. Canby.⁶³ Pierrepont did the best he could with the material he had and trusted to the judge’s help for the rest. He cited profusely from the Bible, and quoted page after page from the testimony. He must have bored his audience to distraction. Speaking as the last man, he could not repress a threat to the jury.

“A great many men,” he said blandly, “from interested motives, . . . are very anxious to remove this capital from its present place. They say it does not belong here . . . You cannot get justice in . . . Washington; a jury . . . refuses even to find guilty the assassin of the President . . . We will remove the capital . . . to a place where a public officer can be safe . . .”⁶⁴

This was going pretty far. But Pierrepont, bare of real points which he could have used, stooped to something still more ludicrous with which to befuddle the jurors.

“If he [Surratt] is not guilty,” he confided to them, “your grand jury have done him a great wrong.”⁶⁵ Here was another new doctrine, then. A man indicted should invariably be convicted, for an acquittal would be a reproach to the grand jury.

In the end, Pierrepont actually tried to repeat the trick Holt and Bingham had played on the military commission in the case of Mrs. Surratt. He told the jury that the Executive could modify the punishment meted out to the accused, thus encouraging the jurors to pass a death sentence in the hope that the President would veto it.⁶⁶

3

The Verdict

The great trial was nearing its end. There remained only the judge's charge, before the jury would render its verdict. The charge was promptly delivered; it will undoubtedly stand forever as one of the most remarkable examples of one-sided judicial instructions.

"'Whoso sheddeth man's blood by man shall his blood be shed,'" Judge Fisher began. "So spake the Almighty . . ."

A singular beginning; but more unveiled malice was to follow.

You know, gentlemen, as well as you know that you exist, that to murder the . . . President . . . is not less atrocious . . . than to compass the death of a king . . .¹

Judge Fisher then made reference to the Milligan decision of the Supreme Court which, in the judgment of legal commentators, had stigmatized as illegal all such proceedings as the military commission of 1865, which had consigned Mrs. Surratt to her death.

"The majority opinion," Judge Fisher now declared, "being . . . predicated upon a misapprehension of historic truth, we could not, perhaps, have looked for a more rightful deduction.

"Unprepared, however, as all loyal hearts were for such an announcement, the American people would be even yet more astounded . . . that . . . the President . . . has not the power in time of war to institute a military commission for the purpose of trying a gang of spies and traitors . . ."²

Instead of abiding by the law as the Supreme Court had interpreted it, the judge then advised the jurymen to let themselves be guided by "that book of highest authority known among

Christian nations . . . Man cannot make better law than God," he told them, citing the case of David and Uriah. "This judgment of the Lord was not that David was accessory before the fact of this murder, but was guilty as the principal . . . *It was a judgment to the effect that he who does an act by another does it himself . . .*"³

No judge could have used plainer language to steer a jury toward a verdict of guilty.

So far as Surratt's alibi went, the Hon. George Fisher opined that this was "a line of defence always held in little favor by the courts and juries . . . an honest and sensible jury cannot fail to regard it with suspicion . . ." And as to his own impartiality, why, he would not think of deviating from it by even an inch "in a cause involving the life of the prisoner upon the one hand, and the vindication of the *outraged justice of a nation in mourning* upon the other . . ."

Of course, he added, ". . . flight from the scene of crime, the fabrication of false . . . statements, . . . are . . . strongly indicative of guilt. [And] . . . a confession [the alleged and uncorroborated confession of Surratt reported by Doctor McMillan] . . . is one of the surest proofs . . . because it is the testimony of the Omniscient speaking through the conscience of the culprit."⁴

In fine, after giving to the jury ten highly colored points on which the decision hung, he concluded his speech with the following admonition:

If John H. Surratt . . . is not guilty, so pronounce him . . . , thus giving a lesson of assurance that a court of justice is the asylum of innocence. On the contrary, if guilty, pronounce him guilty, and thus by your verdict furnish a guarantee of protection to the intended victims of guilt, and a testimonial to the country and the world that the District of Columbia . . . gives the judicial guarantees essential to the . . . public servants commissioned by the people

of the nation to do their work, safe and sacred from *the presence of unpunished assassins within its borders*.⁵

The last words, dinned thus ingeniously into the ears of a bewildered dozen of men would have made them responsible, just as Pierrepont had intimated, for the removal of the capital, if they had found the prisoner innocent; one can hardly extract a different meaning from these words. Not only their patriotism, but their fear was aroused to help them see the light as the judge saw it.

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On July 7, at 28 minutes before noon, the jury retired for its deliberations. Silence spread through the old court-house, as the entire country waited for the verdict. In lieu of better groundwork for guessing the final outcome, the record of the jurors was gone into again. At their examination they all, except one, had admitted that they held opinions regarding the guilt or innocence of the prisoner. One of them had said that his opinion was not a decided one, others had said that their judgments had been formed to a certain degree. One of the jurors confessed that his mind was practically made up before the case had started; nevertheless, he was not rejected by either side. Not one member of the jury had pretended to be without an opinion on the sentence meted out to the defendant's mother.⁶ All the colloquies between the jurymen and the examining counsel were now hauled from the records and studied to see if they allowed a safe prediction of Surratt's fate.

The jury asked to be given a copy of the evidence, but Judge Fisher denied their request as not in accordance with the established practice of the court. The clerk then administered the oath to the bailiffs.⁷

You shall take this jury to some convenient room, and keep them apart by themselves; you shall not suffer any person to speak to them, neither shall you speak to them yourselves, unless it be to ask them if they have agreed upon a verdict, without the permission of the court.

At half past 2 in the afternoon the press flashed its first bulletin to an expectant public.

The jury has now been out three hours. The spectators, male and female, remain in the court room, and seem determined to sit it out.

An hour later a message was published that Judge Fisher had gone home, to be absent for two hours. Did he have information that a speedy agreement was not in sight? The reporter was not certain.

At 4 p.m. the prisoner was taken from the courtroom. He looked pale and excited, and his removal was the signal for most spectators to leave. A rumor was heard that the jury stood ten to two, but no one could tell where it had come from or toward which side the jury was leaning.

The hot afternoon wore on and darkness fell. At half past 9 bedding was brought to the court-house. It was evident that an early verdict was not in sight. Nonetheless, the courtroom remained open.

"The crowd in the court-room hangs on," wrote a reporter, "and not a few are fast asleep in their chairs. There being no gas fixtures in the court-room, it is dimly lighted with candles."

In the meantime, an enterprising Associated Press reporter figured out the cost of the trial. The jurors were allowed two dollars a day plus their hotel bills and incidentals. Among the latter, carriage and omnibus hire alone amounted to \$730. The witnesses were entitled to a fee of \$1.25 a day, and \$.05 each way for every mile traveled. There had been 282 witnesses examined in all. The largest sum paid out was to Sainte-Marie,

who received \$668.15 for 143 days' attendance and 4,894 miles traveled.

One reporter had it that Pierrepont's fee was \$10,000; his co-worker Colonel Foster, a former government investigator in Holt's office, was a close runner-up.⁸

With such gossip the crowd whiled away the time. But it was all of no use. There was no verdict that night, nor the following day. The bulletins became less frequent and began to repeat themselves; yet the crowds kept milling in and out, and every scrap of information was greedily snapped up, enlarged, and sped on its way. Some of the jurors were comfortably stretched out, it was said, and others were striving to convert their opponents to their views. This was scarcely news, but it flew the rounds for want of better substance.

Another night passed and another day. After two and a half days of wrangling the twelve locked-up men sought relief in singing, and through the door of their room there floated, rather appropriately, the strains of "Home, Sweet Home".

Darkness set in once more, and with it appeared a story that an attempt would be made to kidnap the prisoner. "The jail is located about 400 yards from the court-house," wrote the *Chronicle*,⁹ "and the avenue leading to it runs through a park and is lined on each side with rows of trees." The four policemen usually provided as an escort, the reporter thought, would prove no serious obstacle to Surratt's friends, who were present in large numbers.

The night passed, but there was no disturbance. The jury was still debating, while people sat in the courtroom and on the doorsteps, fighting the whole trial over again. The reporters ran out of stories, and other matters began to crowd the front pages.

Suddenly, at half past 12, a deputy marshal entered the courtroom and stationed the officers. The break had come.

As if by a given signal the waiting crowds rushed in and

quickly filled every available space. Yet, no jury appeared. Was it a false alarm, after all?

No. At 1 o'clock the prisoner was brought in and assigned his accustomed seat. He came in smiling and seemed in great spirits. Whispered speculations on what the verdict would be kept sweeping through the room. "The jury has agreed." "No, they are going to discharge the jury." "They can't agree, what's the betting?"

At five minutes past 1, Judge Fisher resumed his place on the bench. The court crier called for order, and a deep hush fell over the crowded room.

At eight minutes past 1 the jury filed in. It was a tired and worn out group of men which sat down on the hard benches. Their faces, scanned by dozens of eager eyes, betrayed nothing but the agony of endless discussions and sleepless nights. Then the clerk rose and asked solemnly,

"Gentlemen of the jury, have you agreed upon your verdict?"

The foreman slowly rose.

"We have not been able to agree," he said resignedly.

A rush of men from the courtroom, an angry command for order, and silence once more. The judge read a communication from the jury:

To the Hon. George P. Fisher of the Criminal Court:—Sir:—The jury in the case of the United States vs. John H. Surratt, most respectfully state that they stand precisely now as when they first balloted upon entering the room—nearly equally divided—and they are firmly convinced that they cannot possibly make a verdict. We deem it our duty to the court, to the country, and in view of the condition of our private affairs and the situation of our families, and in view of the fact that the health of several of our number is becoming seriously impaired under the protracted confinement, to make this statement, and to ask your Honor to dismiss us at once.¹⁰

The letter from the jury was heard by the crowd in the courtroom in stunned silence. Although not unexpected, the verdict once more revived the dormant flames of partisanship. No efforts were made to suppress murmurs of dissatisfaction, but the stern face of the judge and the watchfulness of the bailiffs prevented open outbreaks.

When order was restored, Bradley protested angrily against the discharge of the jury; but Judge Fisher explained that he had two or three times before refused a request of the tired twelve men to be released, as they could not agree. Now he felt that further endeavors to reach a verdict would be fruitless.

In a few more minutes the jury was discharged and immediately left the courtroom.

The final poll of the jury had been what might be called a party vote. With only one exception, the Northern and foreign jurors had voted for conviction, the Southern jurors for acquittal, as will be seen from this tabulation:¹¹

W. B. Todd (foreman)—Born in Newburyport, Mass...	Guilty
J. Russell Barr—Born in Northumberland Co., Pa.....	"
Christian S. Schneider—Born in Württemberg, Germany	"
William McLean—Born in Scotland	"
Robert Ball—Born in Alexandria, Va.	Not guilty
Thomas Berry—Born in New York City	" "
George A. Bohrer—Born in Georgetown, D. C.	" "
James Y. Davis—Born in Northumberland Co., Va.	" "
Columbus Alexander—Born in Alexandria, Va.	" "
Benjamin F. Morsell—Born in Prince George Co., Md.	" "
Benjamin Gettings—Born in Montgomery Co., Md.	" "
William W. Berth—Born in Washington, D. C.	" "

All the oratory, the enormous amount of evidence and the fine legal points developed by both the prosecution and the defense, had been more or less wasted on the jury, even if they had been understood. At the end of the balloting, the foreman

said, the vote stood precisely as it had been at the beginning. It may be reasonably inferred that it also stood where it had been at the beginning of the trial and before any evidence had been heard at all.

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While the long-drawn-out deliberation of the jury was foreshadowing the verdict, the newspapers of the country jumped into the fray and voiced their opinions.

The *Washington Chronicle* took up the cudgels in defense of Judge Fisher.

" . . . the learned and faithful judge," it announced on August 8, "who has so patiently presided day by day, . . . transferred that responsibility to the jury in a very able and just charge. . . . This charge . . . strengthens convictions which no unprejudiced mind could have escaped. . . . Judge Fisher vindicates the Military Commission before whom the other conspirators and assassins were tried . . . we do not see how the jury . . . can fail to convict Surratt . . ."

Leslie's Weekly concentrated on Pierrepont's plea to the jury and found much fault with it.

"Till within a few years ago," it complained,¹² "the good old Anglo-Saxon principle of considering every man innocent until he was proved guilty has ruled in our courts. . . . It is to be regretted that in the Surratt trial this principle has been lost sight of. . . ."

"Passing over the violent behavior of Mr. Bradley, . . . we come at once to the *animus* visible in Mr. Pierrepont's address to the jury. . . . let us quote a few of his remarks. . . . the Pope is introduced as follows:

"He (Surratt) went to a priest . . . who has not done his church any credit, . . . and Boucher [the Canadian priest who kept Surratt in hiding] will hear from the Pope before another year."

"Now, what has the Pope to do with this trial? . . .

"Surratt is either guilty or not guilty. If he is not guilty, then a great wrong has been done him by the Pope, who surrendered him to the Grand Jury, who indicted him.'

"After the Pope and the Almighty, Mr. Pierrepont introduces the Sphinx.

"He flees to Egypt, that ancient land where Joseph was a slave, . . . and there even the colossal Sphinx . . . says that darkened land can have no place for such treason and crime . . .'"

Alluding to Pierrepont's constant references to Divine punishment, *Leslie's Weekly* commented dryly,

. . . what punishment awaits an advocate who distorts truth and appeals to ignorant clamor to obtain a conviction, which is worth nothing if not procured by undistorted evidence?

So far as Judge Fisher's tirade is concerned, the editor picked out only one sentence.

"When the dark clouds of war which for four years had lowered on our national horizon had begun to lift, and the sun of peace was about to gladden us again with its benignant wings."

Surely, *Leslie's Weekly* thought, this was "'madness of poetry without its inspiration.' Who ever heard of a sun with wings, and the said wings being employed to gladden us with their benignant feathers?"

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After the jury was discharged, the editorial pages of the party press let go in earnest and flamed with passionate or ironical outbursts. The Boston *Daily Evening Transcript* of August 12, headlining its article "The Disgraceful Termination of the Surratt Trial", declared that ". . . John H. Surratt would have been convicted . . . by almost any impartial jury . . .," and

added viciously that “. . . *The intimates of the White House did not desire Surratt's conviction* . . . such a verdict . . . was expected by those familiar with the influences brought to bear upon the jurymen . . .” Just how the White House accomplished its purpose the writer did not disclose.

The *Chicago Times* on August 13 gave its editorial the title *Verdict Against Judge Fisher*, and upheld the jury in its decision.

“Law is said to be the perfection of human reason,” it continued. “The fact that it is spoken by the mouth of a judge does not make lawful a proposition that has no reason to support it . . . the failure of that jury to agree . . . was a verdict of guilty against Judge Fisher's charge, as setting up for law that which is not law or common sense.”

The *New York Herald*,¹³ although hostile to Surratt, agreed with its *Chicago* contemporary.

It would be strange if the jury could hold . . . with Judge Fisher's charge . . . It began with a harangue on . . . capital punishment . . . We need not dwell on the glaring impropriety of mooted such a point to the jury that had yet to determine the man's status . . . Following this harangue . . . came another in equally bad taste on the wickedness of the rebellion . . . some very novel citations of cases were made, such as a case from the *Book of Kings*—a good book, no doubt, but not often quoted as an authority on criminal jurisprudence.

The historical background of the Surratt case was probed by the *New York World*.¹⁴

. . . this trial . . . was not prompted by . . . ordinary motives; it has not been conducted in the ordinary spirit of criminal jurisprudence; and is not therefore to be surrendered to oblivion with the apathy which usually follows a failure to convict.

. . . The paramount object of this trial was the exculpation of the government . . . Judge Fisher is a Republican appointed by Mr.

Lincoln. His rulings have been, throughout, most glaringly *against* the prisoner. The leading counsel for the prosecution . . . is a gentleman who has been . . . the closest and most intimate friend of Secretary Stanton . . . Mr. Stanton has not forgotten the arts of manipulating the telegraph which he practised during the war. Before the trial commenced it was announced from Washington that Judge Pierrepont would not consent to conduct the case . . . until he became convinced . . . that the prisoner was undoubtedly guilty. This was a trick for causing the testimony to be read with jaundiced eyes; a trick for procuring a conviction in the public mind in advance of the trial. There was much similar trickery in the court . . .

Comparing the trial of John Surratt with that of the conspirators two years earlier, the *World* continued.

Here was substantially the same case, most of the same witnesses, substantially the same evidence, . . . and . . . the prisoners were promptly convicted . . . It is clear, therefore, that Mrs. Surratt and the others . . . were murdered. . . .

The Springfield (Mass.) *Republican*, in its issue of August 12, took a calmer view of the matter.

. . . the defence succeeded by their proof of an alibi and by other testimony, in establishing in the minds of two-thirds of the jury the prisoner's innocence . . . The trial has been conducted with a great deal of patience and deliberation, and with a fairer disposition of even-handed justice than was generally expected when it commenced. That Surratt is really guilty of the charges alleged in the indictment there can now be no doubt, but it would be difficult to find an honest jury in the District of Columbia or any other place, who would agree that the facts were fully . . . proven . . . beyond a reasonable doubt. . . .

The Chicago *Tribune* ¹⁵ was of the opposite opinion. Surratt's "presence in Washington . . . was . . . essential to his convic-

tion," it emphasized. " . . . The Government offered witnesses who testified point-blank to the fact of Surratt's presence at the theatre that night, but, not content with that, they followed that testimony by the evidence to the same point of witnesses whose character was certainly of the most questionable kind. No jury would have convicted a man upon the evidence of these disreputable witnesses alone, and the only effect . . . was to place all the testimony upon that point under a cloud. . . . The result is not a surprising one. The jury could not agree upon the point that Surratt was or was not in Washington that night, and . . . the disagreement is consistent with a desire to do justice."

In one respect the Surratt trial must have proved a disappointment. The sensational developments, for which a large portion of the press had hoped and prayed, failed to materialize. Neither President Johnson's name, nor that of any other high official, figured prominently in the proceedings, and no big reputations were blasted. In fact, with the exception of the military commission's appeal for Mrs. Surratt, news of which was brought out into the open in a tilt between Pierrepont and Merrick, it cannot be said that the Surratt trial disclosed anything important pertaining to the assassination that had not been known before.

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The discharge of the jury marked the last of the Surratt case. Surratt was kept in the Old Capitol prison for several months, but was finally liberated on \$25,000 bail. He was again arraigned, this time on charges of conspiracy *and treason*. But the law in such cases required that the indictment should be found within two years from the time of the alleged offence. More than this time had elapsed, and the accused was therefore definitely set free.¹⁶

After his final release from prison, Surratt tried to make his living selling tobacco. He then became a school teacher in the neighborhood of Rockville, Maryland,¹⁷ and later took to lecturing. After he had given his first lecture in Rockville, the police forbade a repetition of it in Washington, because it was feared that public demonstrations might result. A New York mob, inflamed by antagonistic newspapers, prevented a similar plan in that city.¹⁸ Eventually Surratt became an auditor of freight receipts for the Baltimore Steam Packet Company at Baltimore, a position he held to his death in 1916, leaving an excellent record behind him. He was known in his later years as a taciturn, reserved, but universally friendly man. Nothing, however, could induce him to talk about his past, and the subject was forbidden even within his own home.¹⁹

An acquaintance once described him with photographic accuracy.²⁰

. . . he was always the same, pleasant and agreeable, but I usually had to "make the conversation." He would . . . answer me very nicely and politely, but always there was that "reserve" . . . He impressed me as a man that always, under any and all circumstances, could be counted on to be in full control of himself. I regarded him as an able, energetic and capable man in anything he might undertake . . . He was approximately six feet tall, and sparely built. His forehead was very prominent, and his eyes deeply set. . . . he was always modestly and neatly dressed. His manner of speech was well regulated, and his tone of voice modulated and pleasing.

His face, I would say, was a hard one to read; . . . there was nothing . . . to indicate what was transpiring back of those eyes. There was nothing that was not agreeable, but just that quiet and dignified look . . .

It is said that Surratt had written his biography, but burned

the manuscript a few days before his death. And with the manuscript, if such there was, went the last chance to get at first hand the story of his adventurous life and his part in an eventful epoch.²¹

☆ XIV ☆

DURING the weeks and months and years following Lincoln's death, additional details of the tragedy at Ford's Theatre kept trickling in. Almost every eyewitness to the event came forth in the course of time to give his version. But the picture, instead of emerging with greater clarity, became more enveloped in haze as John Wilkes Booth's deed passed into history.

Did Booth exclaim "Sic semper tyrannis" as he landed on the stage? Did he pause for a moment and shout, "The South is avenged"? Was he walking erect or did he limp as he hurried toward the rear door? In the general excitement, no two persons carried away the same impression, and therefore the right answers to these and many other questions will never be known. But even facts which could have been ascertained easily at that time were left in doubt. Some of them remain unsolved problems to this day—

XIV

Problems Solved and Unsolved

1

When Was Lincoln Shot?

IT IS known to a second when Lincoln died. His breathing stopped at 7:21 and 55 seconds in the morning of April 15th, and at 7:22 and 10 seconds his pulse ceased to beat. Dr. Charles Sabin Taft, watching at the bedside of the dying President, left an exact account of his observations.¹ No one, however, has recorded the exact time when Lincoln was shot, although it would have been only natural for someone to do so. The matter was surely of sufficient interest to warrant attention.

The early editions of the morning press on April 15 gave the time of the shooting as 9:30 p.m. the previous night.² The statement was contained in Secretary Stanton's first dispatch to General John A. Dix at New York. Many dailies, some of them morning, some evening papers, gave this time as the moment of the shooting. They were the *Washington Intelligencer*, the *Springfield (Mass.) Daily Union*, the *Chicago Times*, the *Philadelphia Inquirer*, the *New York Evening Post*, *Tribune*, *Daily News*, *Times*, all the editions of the *Herald*, the *Detroit Tribune*, the *Boston Daily Evening Traveller*, the *Baltimore Sun*, the *Auburn (N. Y.) Daily Advertiser and Union*, the *Philadelphia Sonntags-Blatt* of April 19, the *Charleston Courier* of April 20 and others.

On the other hand, the *Washington Daily Morning Chronicle*, the *Washington Evening Star* and the *Alexandria Gazette* of April 15, the *Richmond Whig* of the 18th and the *Washington Dollar Weekly Star* of the 21st, all announced 10:30 as the correct time, fully one hour later than their contemporaries.

Evidently the wording of the official bulletin from Washington was changed during the evening, but who made the correction has not been ascertained, nor is it known when and why it was made. In the message as it was embodied in the Official Records the time was given as 10:30 p.m.³ A telegram sent by the War Department to Grant shortly after midnight on the 15th also indicated 10:30 as the time of the attack, and when Stanton wrote a letter to the United States Minister at London the next day he asserted that the assassination had occurred "about the hour of 10:30 o'clock."⁴

A few weeks later, when the conspiracy trial was held in Washington, the judge advocate alleged that the fatal discharge of the pistol had taken place "about ten o'clock and fifteen minutes p.m."⁵ But two years later the prosecutor at the Surratt trial stated that the time was about 20 minutes past 10.⁶ No other official sources of information are available, and Doctor Taft, who was so exact about the time of Lincoln's death, was satisfied to give the time of Booth's shot as "about 10:30 p.m."⁷

The only person who seems to have exhibited some curiosity on this subject was Judge A. B. Olin, who conducted a preliminary investigation of the crime. His main object was to discover whether the assaults on Lincoln and Seward had coincided. Unfortunately, the good judge refrained from disclosing what results he had obtained.⁸

During the conspiracy trial a sergeant by the name of Joseph M. Dye came forth and told of a mysterious man who had passed up and down the street in front of Ford's Theatre, calling out the time to some persons unknown. The last time he called out

was 10 minutes after 10. Shortly afterward, Dye went into an oyster shop nearby and "had barely time to get . . . seated . . . when a man came running in and said the President was shot."⁹ This casual testimony would be of slight dependability were it not for the fact that Dye was called to the witness stand again two years later at the Surratt trial. The defense then established the fact that the mysterious stranger was not so mysterious after all. He had been an employee of the theatre, a costumer named Louis J. Carland, and there had been nothing strange about the conversation. An actor by the name of Hess was supposed to have sung a patriotic song after the performance and was wanted behind the stage at 15 minutes after 10. When he heard that the time was 10 minutes past the hour, he left the front of the theatre hastily and went backstage. He had not been there more than 2 minutes when he heard the discharge of the pistol.¹⁰

The distance which Hess had to traverse was found by actual test to have consumed about one minute's time. The clock in the vestibule from which the readings were taken had been fixed by the noon ball from the Naval Observatory.¹¹ It is therefore safe to say that Booth fired his shot at or close to 13 minutes past 10 p. m.

2

How Far Did Booth Jump?

When the assassin jumped from the Presidential box to the floor of the stage directly beneath it, he broke his left leg. This fact, which was directly responsible for his failure to escape, was widely discussed, of course, but few writers tried to determine the exact height of Booth's jump, and whatever statements have come down to us are so far apart from each other that they are difficult to collate.

No architectural plans of the theatre are available. Ford's Theatre was rebuilt in 1863 after a fire which had damaged it on December 30, 1862.¹² Washington at that time did not have a building department,¹³ and therefore this customary source of information is closed to the present-day investigator.

During the conspiracy trial, John T. Ford, the owner of the playhouse bearing his name, came provokingly close to revealing the height of the box which, naturally, must have been known to him. He told of Booth's habit of making leaps which he called both extraordinary and outrageous. But just when he was about to give exact figures, his testimony veered off in another direction, and the few words containing the correct information were never spoken.¹⁴

The assistant judge advocate at the conspiracy trial gave the distance of the leap as twelve feet.¹⁵ He had conducted the jury of officers to the theatre to view the scene of the murder, and one of the military judges, in a book written many years later, corroborated the judge advocate's statement.¹⁶ Unfortunately, neither of the two stated whether actual measurements were taken, and both of them may have written or spoken with the inaccuracy known as poetic license.

Major Rathbone, who was one of Lincoln's guests that night, should have had correct information or at least a concrete opinion in regard to the height of the box. In a sworn statement two days after the tragedy he gave the elevation of the box above the stage as "about ten or twelve feet",¹⁷ which is practically meaningless. A fellow-officer who was present gave the distance as nine feet.¹⁸

There also happened to be in the theatre a Captain Oliver C. Gatch, who was accompanied by his brother, a surgeon in the army. They claimed to have carried the dying President across the street, and then to have returned to the theatre for the sole purpose of ascertaining how much of a leap Booth had under-

taken. They climbed to the stage and measured the distance. It was fourteen feet.¹⁹

A measurement taken by a reporter for a contemporary paper²⁰ deserves consideration. This reporter seems to have had a flair for figures, because he followed Booth's course through the theatre and found that the distance the assassin had to cover in order to traverse the stage was exactly thirty-nine feet; the point at the foot of the box where the actor had landed was sixty-four feet away from his horse in the alley, according to this writer. He finally stated positively that the distance from the balustrade to the floor of the theatre was exactly twelve feet eight inches. It is regrettable that this record is impaired by what may have been a slip of the pen. Booth did not jump to the floor of the theatre but to the stage, and the stage was of a higher elevation than the floor. Nevertheless, this journalist is supported by General Roeliff Brinkerhoff, who also gave the height of the box as twelve feet, eight inches, adding the significant words "above the stage".²¹

Writers on Lincoln's assassination have at various times made reference to the height of Lincoln's box, but their statements vary widely. Victor Louis Mason in his story "Four Lincoln Conspiracies", places the distance at fourteen feet,²² in which estimate he is supported by Clara E. Laughlin.²³ David DeWitt makes the distance twelve feet²⁴ and Walt Whitman opines that the height was "perhaps fourteen or fifteen feet."²⁵ Doctor Taft, who had been lifted to the box from the floor of the stage, gave the distance as twelve feet,²⁶ Oldroyd and Herndon as nine.²⁷ Curiously, there is at least one contemporary account which estimates the distance of Booth's leap as possibly only six feet. "He [Booth]," one may read in the *Philadelphia Daily Evening Telegraph* on April 15, 1865, "has sprung from that private box—it is but a leap of six or eight feet. . . ."

That Booth jumped only six feet is unlikely. His gymnastic

feat attracted considerable attention, and if it had been such an easy vault it would hardly have been mentioned. Nicolay and Hay, who should have known Ford's Theatre, wrote many years later that "it was a high leap, but nothing to such a trained athlete."²⁸ They would not have called a six-foot jump a high leap, and John T. Ford certainly would not have classed it with feats he called outrageous.

In a little pamphlet by one Paul Devere called "The Flight of J. Wilkes Booth," the distance of his leap is given as twenty feet. This estimate is so improbable that it deserves no serious consideration.

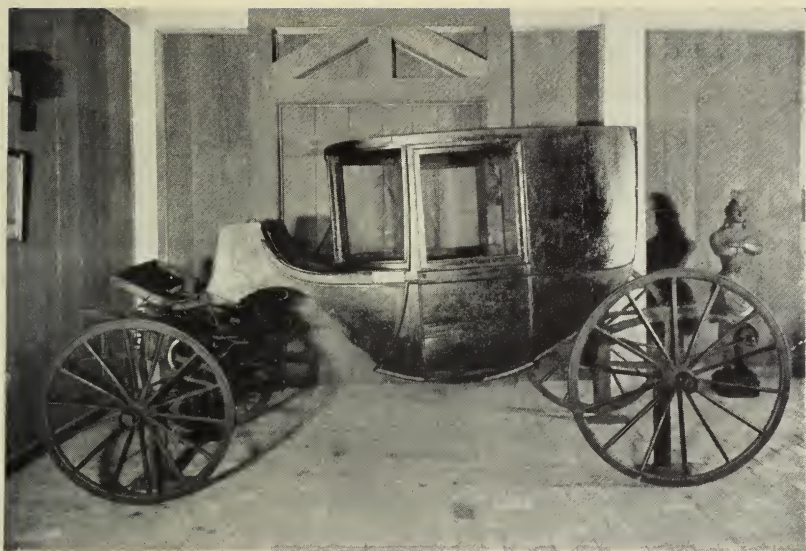
Attempts to determine the distance of Lincoln's box from the stage by indirect methods are beset with difficulties. Doctor Taft, for instance, was lifted to the box by standing on someone, but this elevation was not sufficient, and Miss Harris, who was inside the box, had to assist him in climbing over the railing.²⁹ This seems to offer possibilities for an estimate. Unfortunately, we do not know the size of Doctor Taft nor that of the man who lifted him; we do not even know whether he stood on somebody's shoulders or hands. Yet, the description of this incident leads one to believe that the distance was not as low as six nor as high as twenty feet.

Photographs of the box and the stage taken immediately after the assassination furnish no reliable standards to gauge relative dimensions. Artists' sketches which are available are entirely worthless for this purpose.

When the manager of Grover's Theatre in Washington was called as a witness in the conspiracy trial on May 31st, 1865, he might have given the exact measurements or at least a close estimate, had this examination been conducted from that angle.³⁰

Q. You know about the height of the second tier of boxes from the stage?

A. Yes, sir, I do from general observation only.



Lincoln's closed coach.

(By courtesy of the Chicago Historical Society.)



Lincoln's barouche with foldable top.

(By courtesy of The Studebaker Corporation, South Bend, Ind.)

Q. Do you consider the leap from the second tier of boxes to the stage an extraordinary or difficult one?

A. From my present recollection, I should say not very difficult.

Before the examining attorney could elicit further information, an objection by opposing counsel closed the examination.

An opportunity to get at the truth presented itself during the Surratt trial in 1867. It developed that the property man at Ford's Theatre, in his anxiety to contribute his mite toward helping the dying President, had brought a pitcher of water from behind the stage to have it taken up to Lincoln's box. The police officer to whom he gave the pitcher handed it up, so this witness stated.³¹ If the policeman had stood squarely on the stage floor, and assuming that someone in the box leaned far over to receive the water, the distance could scarcely have exceeded ten or eleven feet; but the policeman might have stood on a chair, in which case this reasoning would not apply.

One of Ford's brothers threw a similar light on this problem from the witness stand. A carpenter was working on the stage, he said, and Mr. Ford, trying to prepare the Presidential box for the evening, called for a hammer and nails. The carpenter handed the hammer up, but had to throw the nails.³²

From all this confusing testimony no definite conclusions can be drawn. It appears probable, however, that the distance of Booth's leap was not less than ten nor more than fourteen feet.

3

The Problem of Stanton's Doorbell

Did Stanton almost share Lincoln's fate on the night of April 14? Stanton said he did. Three years after the assassination, he told some friends of his narrow escape.³³ An unidentified man

had rung his doorbell about 10 o'clock, he related, but had been frightened away by some of the Secretary's friends who were hastening from Ford's Theatre to his house with the tragic tidings. Nonetheless, their arrival would have been too late, Stanton claimed, and he also would have been murdered, had it not been for a broken doorbell. Because of it, the mysterious stranger's ring remained unanswered, and the War Minister's life was saved.

This story was universally believed and would never have aroused any doubt, had Stanton not added a needless detail. He averred that the doorbell had been out of order for two or three days and that the bellhanger, although promptly notified, had failed to appear because he was too busy.³⁴

No one giving this matter serious thought will accept this statement without grave misgivings. Stanton's doorbell was undoubtedly the most important doorbell in Washington. Any repairman who would have delayed mending it "because of pressure of orders", as Stanton put it, would promptly have found himself in a military prison. Besides, there were thousands of soldiers in the capital, and it would have been strange had there been no bellhanger among them. It would have been equally strange if members of Stanton's own household could not have repaired an ordinary doorbell.

Yet, there is one possibility that would make Stanton's statement plausible. The bell may have been of electrical construction. In that case the few mechanics who might have had the skill to restore the bell to service might really have been difficult to find.

The exact date when electric doorbells came into use in the United States has proved elusive. It is certain, though, that several years passed after Lincoln's death before electric doorbells were installed for domestic use. Stanton's doorbell was therefore of ordinary make and could have been repaired without delay.

His statement that the bellhanger gave preference to other doorbells was uncalled-for, and somehow brings to mind the French saying that *qui s'excuse s'accuse*.

In fact, there is some direct testimony indicating that Stanton's doorbell was not out of order at all. The information is contained in a newspaper article, entitled *Washingtonian Carried News of Lincoln's Death to Stanton*.³⁵

"It has been stated," the article begins, "that a broken doorbell saved the life of Stanton; that an assassin attempted to get into the house, but was not successful. There is no truth in that story." The narrator, a man named Sterling, then reported how he had gone to Stanton's house with a roommate and had rung the bell. The door was promptly opened by Edwin Stanton, the Secretary's son. Young Stanton was acquainted with the visitor and conducted him to his father. Mr. Sterling then described his meeting with the War Minister, who had been aroused from sleep. "He fairly shouted to me in his heavy tones:

" 'Mr. Sterling, what news is this you bring?'

" 'The President!' I replied, 'was shot.'

" 'Do you know who shot him?' he asked.

" 'Yes,' I answered. 'They say a man named Booth. . . .'

"During the conversation Secretary Stanton walked back and forth across the room in great agitation. . . .

"There was a ring at the door . . . The bell rang again in a few minutes . . . It has since been stated that the person who notified Stanton of Lincoln's assassination saw a man run away from the house and that this man belonged to the band of conspirators, but that is not true. . . . [My roommate and I] carried the news to Stanton and we saw no one. . . . I do know that a broken doorbell did not save Mr. Stanton's life."

All of which leaves behind it a strange enigma. Why, if Stanton's doorbell was not out of order, did he say that it was?

4

The Man Inside the Carriage

Mystery surrounds Booth's futile effort to capture Lincoln on or about March 20, 1865. Who was the man in the Presidential carriage? Did he know that he was in danger on his trip to the theatrical performance? And why has he never come forward to disclose his identity?

Whoever took Lincoln's place that fateful afternoon—and no one knows who he was—would only have been aware of his danger if the conspirators had stopped the carriage or else betrayed their intentions by an incautious move. Unfortunately, neither of the two members of Booth's party who reported this experience left accurate reports of it. Surratt thought that he recognized Chase, Lincoln's former Secretary of the Treasury and then Judge of the Supreme Court, as the man who replaced the President that afternoon.³⁶ He therefore must have had an opportunity to look at him long enough to make his identification, erroneous though it probably was. What Surratt failed to mention, is whether he made his observation while the carriage was in motion or not.

If the carriage was an open one it may be inferred that it was not stopped. Lincoln's features could not be mistaken, even at a considerable distance. The conspirators, keeping away from the coach, would be taken for harmless horsemen out for a ride, and Lincoln's substitute would have continued on his errand without uneasiness. If, on the other hand, the carriage was of the closed type, the horsemen would have been forced to make an inspection of its interior, something they probably could not have done without stopping it; at any rate, they most

likely would have aroused enough suspicion to give away their intentions.

Lincoln had both an open and a closed carriage at his disposal.³⁷ Do the weather conditions permit a safe conclusion as to which was more likely to be used that afternoon?

According to the records of the United States Weather Bureau, the 20th of March, 1865, started at midnight with a temperature of 46° and then moved within a fairly wide range up to 74°.

12:30 a.m.	46°	Noon	60°
3:30 a.m.	44°	3:30 p.m.	67°
6:30 a.m.	42°	6:30 p.m.	68°
9:30 a.m.	48°	9:30 p.m.	60°

The maximum temperature, given as 74°, was undoubtedly reached in the late afternoon. The Presidential carriage left the White House between 1 and 2 o'clock, when the temperature was in the 60's, with light, fluffy clouds overhead and no rain threatening.³⁸ Either a closed or an open carriage would have been suitable under these weather conditions, and the barouche could have been used with the top up or down; it all depended on the taste of the passenger. Obviously, this line of investigation does not yield a satisfactory solution.

There remains the possibility of judging from the actions of the conspirators how much suspicion they thought they had aroused. Surratt wrote,

We soon after this became convinced that we could not remain much longer undiscovered, and that we must abandon our enterprise. Accordingly, a separation finally took place . . .³⁹

This indicates no panic on the part of the plotters. Samuel Arnold, in his recollections, stated that he and his friend O'Laughlin were waiting for the remainder of the party in a restaurant.

Whilst in there, Atzerodt came in, having just arrived with Payne. A short time after, Booth and Surratt came in and we drank together. Booth had made inquiries at the encampment where the performance was to be held, and learned that the President was not there. After telling us this we separated . . .⁴⁰

Again there were no outward signs of a panic, such as should have followed a suspected discovery.

Wiechmann, who met the waylaying plotters immediately after their plans had failed, described the aftermath of the adventure in colorful fashion.

"After dinner," he testified, ". . . about half-past 6 o'clock Surratt came in very much excited. . . . He had a revolver in his hand. . . . I said, 'John, what is the matter . . . ?' He replied, 'I will shoot any one that comes into this room; my prospect is gone, my hopes are blighted; . . . can you get me a clerkship?'"⁴¹

Thus the dramatic scene ended on a comical note. But if Surratt wanted a clerkship in Washington he could hardly have thought that the purpose of his afternoon ride had been discovered and that he himself had been recognized.

Later in the evening Wiechmann met Surratt again.

. . . I asked him where he had left his friend Payne. He said 'Payne had gone to Baltimore.' I asked him where Booth had gone; he said . . . 'to New York.'

Booth and Paine therefore may have felt themselves in danger. It is possible that they alone had come close enough to the carriage to be recognized. But Booth did not leave Washington until March 21, and came back again on the 25th.⁴² Hence, he must have felt at ease.

The identity of the man who rode in Lincoln's coach remains a subject for speculation. The newspapermen of the time could have solved the mystery, had they tried to do so. The coach-

man certainly should have been interviewed; it was an assignment every wide-awake editor and correspondent in Washington should have covered eagerly. But they were either too indolent, or else were held in leash by a censorship they had learned to fear. The kidnaping attempt was discussed at considerable length during the conspiracy trial and was known to everyone in the United States who could read. Lincoln's unknown substitute could have gained the nation's spotlight had he chosen to step forward. But whoever he was, he kept his secret and took it with him to his grave.

5

If the Secret Service Had Acted

If the lone rider in Lincoln's carriage was alarmed, he would have reported his experience to the War Department; but regardless of his actions, the War Department knew of the kidnaping attempt and even knew the identity of the would-be kidnapers. Louis Wiechmann, Surratt's close friend, was an employee in the War Department and had given his superiors the name of Booth and his little troop of helpers almost two months before the attempt.⁴³ The War Department did not dare acknowledge this advance information, of course; credit for bringing its secret out into the open goes to Butler's Special Committee on Assassination which was formed in 1867 to clear up the mysteries of Lincoln's death in the hope of involving President Johnson. So far as is known, its findings were never made public; but the Washington correspondent of the *Cincinnati Gazette* managed to secure a summary of the facts elicited.

"Back of the assassination," the *New York Times* quoted its Ohio contemporary on November 1, 1867, "lie the various plans

which were concocted for abduction. The evidence collected on this point [by those who were engaged in working up and arranging the conspiracy trial and the trial of Surratt] is not very full, but leads to the conclusion that a large class, composed possibly of prominent persons, were directly and indirectly identified in these schemes . . . *Long before this [murder] the authorities obtained knowledge of what was believed to be a plot for Mr. Lincoln's abduction . . . There are papers in the possession of the Government which show a plan for the capture of Mr. Lincoln while on his way from this city to the Soldiers' Home. In this Booth, Surratt and their party figured.*⁴⁴ The overpowering of the driver and of any other parties who might be in the way, seems to have been intrusted to the stronger members of the band, while Surratt was to do the driving, he being considered the most skillful horseman. The carriage was to be turned off the turnpike at a certain point and driven through open fields to another road."

The papers referred to by Butler's committee have not been found in the Washington archives. The committee members must also have known the name of the man inside Lincoln's carriage. Why did they refrain from divulging it?

No trace of Lincoln's narrow escape on that occasion ever found its way into the press. By coincidence, though, the Washington *Evening Star* only two days afterward lamented Lincoln's inadequate protection. ". . . the nation will have to mourn another dead President," the *Star* wrote, "as it so lately mourned the untimely fate of Harrison and Taylor. And we give fair notice that we shall hold any one who presumed in that case to talk of 'mysterious Providence', 'inscrutable decrees'. . . a shameless impostor. . . ."

The War Department may have had reasons for withholding its knowledge of Booth's abduction plot from the newspapers and, having erred in the first place, Stanton would not, of course,

reveal the secret after his delinquency had contributed to Lincoln's assassination. But why were the plotters not suppressed or at least kept under the strictest surveillance?

6

The Mystery of Surratt's Handkerchief

One of the queerest mysteries that followed in the wake of Lincoln's death centered around a handkerchief. It was a white linen handkerchief marked with John Surratt's name. At his trial, the prosecution asserted that he had lost it during his flight to Canada.

The point the government attorneys were trying to make was not important. Surratt, so they contended, had been in Washington on April 14, and had reached Montreal four days later. He was said to have traveled to Albany and from there to Whitehall on the southern end of Lake Champlain. There he had boarded a boat for Burlington, Vermont, where he had slept in the railroad station. The next morning, April 18, his handkerchief was picked up there by a watchman. This find was supposed to prove the schedule outlined by the government.

The first witness called by the government was a station watchman. Two men, he testified, had requested permission to sleep in the depot; it was after their departure in the early morning that he found the handkerchief near one of the benches where they had rested, and he was sure that the date had been April 18.⁴⁵

The next witness was the conductor of the early morning train out of Burlington, who had taken these two strangers as blind passengers to St. Albans. He also remembered that this

had happened on April 18, because the first boat of the season had come in the previous day.

The third witness was a former deputy provost marshal. It was he who had taken the handkerchief away from the watchman to give it to one of Colonel L. C. Baker's detectives. He believed that he had first seen the 'kerchief on Wednesday the 19th of April.⁴⁶

To all this apparently routine-like testimony no one paid much attention. Suddenly the defense made an unexpected countermove. They, too, had a story to tell of a lost handkerchief marked with Surratt's name; but it had not been Surratt who had dropped it. The loser, strange to relate, had been Mrs. Surratt's erstwhile star boarder, Mr. John Holahan, and he had not lost it on the 18th, but on the 20th. That someone else should have used and lost one of Surratt's handkerchiefs had never occurred to anyone; yet the explanation given by Holahan was quite simple.

Holahan had been pressed into service by Superintendent Richards of the Metropolitan police, so that the assassin, if captured, could be readily identified. On April 15 the party had been on a fruitless search in the lower counties of Maryland and on the 17th in Baltimore. Plans were then made for a long journey into Canada, and Holahan very properly requested a change of underwear. In company with a detective he went to Mrs. Surratt's house, and there, spread on a bed, was a freshly washed pile of laundry. By accident Holahan took a handkerchief of Surratt's and put it into his pocket, and just as accidentally he lost it in the station at Burlington three days later. There was no question in his mind about all this.⁴⁷

The prosecution was completely upset. What hurt their case was that Holahan had lost the handkerchief not on April 18, but on April 20. Surratt was known to have reached Montreal on the 18th. In his perplexity, Pierrepont tried to save the situation

by subjecting the witness to a grueling cross-examination, but he failed to score.

"You are sure about the date?" Pierrepont finally asked, with every appearance of weariness.

"I am as positive as . . . that I am now looking at you," was the reply.⁴⁸

Here then was an unusual impasse. The prosecution had three witnesses to prove that someone had lost a handkerchief marked with Surratt's name in the Burlington depot on April 18; the defense showed that Holahan had lost this handkerchief in the same place two days later. Who was right? Or were there two Surratt handkerchiefs, both lost at the same depot?

Then Mr. Merrick unlimbered his batteries; he accused his opponents outright of having known the answer to this puzzle from the very beginning. In his opinion they had deliberately tried to mislead the court. ". . . the story of the handkerchief," he said, ". . . was known to the judge advocate general. . . . and . . . to the prosecution. . . ." ⁴⁹

Mr. Merrick was right. In 1865 one of Colonel Baker's detectives, George A. Gurnett, had seized the much-discussed handkerchief, and on April 27 had made an official report on it. In fact, the government's knowledge of the handkerchief could only have come from this source. As Gurnett's report was written before its later importance could be known, it may be relied upon as being true.

"While in Burlington," so Gurnett had written, "I obtained a white linen handkerchief, which was dropped in the Vermont Central Depot, on *Thursday evening, April 20*, by one of three strange men who slept in [the] depot all Thursday night. . . . the name J. H. Surratt, No. 2 [was] on the corner of one of the handkerchiefs. . . ." ⁵⁰

Gurnett's report was not the only one in the possession of the government. On April 30, 1865, a letter written by Major

Grout, commander of St. Albans, furnished official confirmation.

"One week ago last Thursday night [April 20]," so it read, "three men slept in the R. & B. Depot, Burlington, Vermont. . . . A detective from Colonel Baker's force was through this place last Tuesday, and he exhibited a handkerchief with Surratt's name upon it, which was found in the depot during the day, Friday, following *the Thursday* night these men slept in the building. . . ." ⁵¹

This proves definitely that Surratt's handkerchief was not found on Tuesday morning, April 18, as the government would have it, and as their witnesses alleged, but on Friday, April 21. *The government lawyers should have known, and probably did know from these statements, that the testimony which they had submitted was false in its most vital feature—in the date.*

Major Grout's statement was on file in Washington and, as the endorsement shows, had passed through the hands of Colonel Burnett, Holt's assistant at the conspiracy trial. Holt was in close contact with Pierrepont. In the early part of the trial, the detective Gurnett was mentioned as having taken possession of the handkerchief,⁵² and the prosecution would have been gravely at fault had they not asked for his original report, unless they were already acquainted with it.

And so the mystery of Surratt's lost handkerchief was not such a deep mystery after all. Yet, the episode is not without significance; it showed to what deplorable lengths the government was still willing to go two years after the assassination to bring about the conviction of an alleged conspirator.

7

A Controversy About the Moon

Of all the mysteries in connection with Lincoln's assassination, the most incredible is that difficulties were encountered even in establishing the hour at which the moon had risen on the night of April 14, 1865.

During the John Surratt trial in 1867 this question became important. Had the moon been up far enough to enable some witnesses to recognize clearly what they were describing, or had it not? ⁵³ Counsel for both prosecution and defense brought forth experts to testify; but these opposing witnesses could not agree on this elementary astronomical phenomenon.

A professor of mathematics at the Naval Observatory in Washington, one A. R. Eastman, was the first to take the stand. He testified that the moon had risen that night at 2 minutes past 10. ⁵⁴ This statement was immediately challenged by the prosecuting attorney, who produced a *Tribune* almanac which gave the correct time as 3 minutes past 10. ⁵⁵ But according to the *Nautical* almanac, the phenomenon had taken place at 1 minute before 10; at least so Professor Eastman had computed it for the latitude of Washington. ⁵⁶

"Could not you have made a mistake of 3 minutes?" the witness was then asked.

"I suppose I could," he replied.

"Well, I think you did," was the rejoinder, for which deprecatory remark the prosecutor was duly censured by the Bench. ⁵⁷

The matter, however, was not yet settled. The prosecution brought forth its own expert, a Mr. William Harkness, a colleague of Professor Eastman at the National Observatory in Washington. This witness made the astonishing statement that

the moon had risen more than an hour earlier, or about 20 minutes to 9; which knowledge, by the way, he claimed to have also gained from the *Nautical* almanac.⁵⁸

This unlooked-for testimony increased the confusion; but the presiding judge declared "that the court does not intend that this jury shall go from this box without knowing at what hour the moon rose";⁵⁹ therefore, a further combat of learned testimony appeared in sight. However, this conflict did not materialize, because Mr. Harkness reappeared on the witness stand a few days later, admitted his mistake and made up for it, as it were, by producing the most exact time yet furnished to the court for the rising of the moon. He had finally calculated it to be 1 minute and 4 seconds past 10 o'clock.⁶⁰

With so many problems pertaining to Lincoln's death clamoring for solution, it is well that this one, at least, though unimportant *per se* was solved to the general satisfaction of all concerned.

NOTES

CHAPTER I

1. Ward Hill Lamon: *Recollections of Abraham Lincoln, 1847-1865* (A. C. McClurg, Chicago, 1895), p. 260.
2. Private Miles O'Reilly: *Baked Meats of the Funeral* (New York, Carleton, pub., 1866), p. 107. Miles O'Reilly was the *nom de plume* of Charles Graham Halpine, a New York writer who enlisted in the 69th New York Infantry at the beginning of the war, rising to the rank of major after a few months' service. He was at one time assistant adjutant-general on General Halleck's staff with the rank of colonel, and upon his resignation received the brevet of brigadier-general. He died in 1868.
3. *Ibid.*, pp. 105-107.
4. *Ibid.*, pp. 107-109.
5. John Bigelow: *Retrospections of an Active Life* (Copyright, 1909, by Doubleday, Doran & Co., Inc.), I, 505.
6. O'Reilly, *op. cit.*, pp. 110-111.
7. *Ibid.*, p. 110.
8. H. M. Kieffer: *Century Magazine*, June, 1890, p. 311 (D. Appleton-Century Co., New York).
9. Roy P. Basler: *The Lincoln Legend* (Houghton Mifflin Company, Boston, 1935), p. 96.
10. Allen Thorndike Rice (Ed.): *Reminiscences of Abraham Lincoln by Distinguished Men of His Time* (North American Publishing Company, New York, 1886), p. 144.
11. Smith Stimmel: *Experiences as a Member of President Lincoln's Body Guard, 1863-1865*. Reprint from the North Dakota Historical Quarterly, Vol. I, No. 2, 1927.
12. Robert W. McBride: *Personal Recollections of Abraham Lincoln* (Copyright 1926. Used by special permission of the Publishers, The Bobbs-Merrill Co.), pp. 23, 33.
13. "An Attempt to Kidnap Lincoln", by Thomas N. Conrad. Unidentified newspaper clipping.
14. Francis T. Miller (Ed.): *Photographic History of the Civil War* (Review of Reviews Company, 1912), Vol. VII, Appendix A, p. 364.
15. Samuel B. Arnold: "The Lincoln Plot" (published in the *Baltimore American*, December 8-20, 1902).
16. Captain Thomas Nelson Conrad: *The Rebel Scout* (National Publishing Company, Washington, 1904), p. 121; Benn Pitman (Ed.): *The Assassination of President Lincoln and the Trial of the Conspirators* (Moore, Wilstach & Baldwin, Cincinnati, 1865), p. 178, testimony of John C. Thompson and of Dr. William T. Bowman.
17. Thomas A. Jones: *John Wilkes Booth* (Laird & Lee, Chicago, 1893), pp. 39-43.

18. Emily Elson Briggs ("Olivia"): "Assassination Night." Unidentified newspaper clipping.
19. *Surratt Trial* (*Trial of John H. Surratt*, Washington, Government Printing Office, 1867), I, 215.
20. *Ibid.*, I, 356.
21. Arnold, *op. cit.*
22. Pitman, *op. cit.*, p. 44.
23. Clara E. Laughlin: *The Death of Lincoln* (Copyright 1909, reprinted by permission of Doubleday, Doran & Co., Inc.), p. 235.
24. Conrad, *loc. cit.*
25. *Ibid.*, p. 121.
26. *Ibid.*, pp. 122, 123.
27. *Ibid.*, p. 124.
28. *Ibid.*, pp. 64, 68.
29. Laughlin, *op. cit.*, p. 228.
30. The exact date of this kidnaping attempt has been the subject of much speculation. See David M. DeWitt: *The Assassination of Abraham Lincoln and Its Expiation* (The Macmillan Company, New York, 1909), Appendix, p. 269.
31. McBride, *op. cit.*, pp. 56, 58.
32. Lamon, *op. cit.*, p. 270.
33. *Traveling Through Life* (Houghton Mifflin Company, Boston, 1934), pp. 108-109.
34. Lamon, *op. cit.*, p. 265.
35. Smith Stimmel: *Personal Reminiscences of Abraham Lincoln* (Wm. H. M. Adams, Minneapolis, 1928), pp. 43, 44.
36. McBride, *op. cit.*, p. 41.
37. Noah Brooks: *Washington in Lincoln's Time* (D. Appleton-Century Company, New York, 1896), p. 38.
38. David Homer Bates: *Lincoln in the Telegraph Office* (D. Appleton-Century Company, New York, 1907), p. 385.
39. *Ibid.*, pp. 384-387.
40. Laughlin, *The Death of Lincoln*, p. 230.
41. Conrad, *op. cit.*, pp. 131-132.
42. Lamon, *op. cit.*, p. 269.
43. *The Diary of Gideon Welles* (Houghton Mifflin Company, Boston, 1911), I, 187, 188.
44. *Ibid.*, II, 101.
45. Edward C. Carrington papers, in possession of the author. Carrington was District Attorney of the District of Columbia. Judge Carter, Stanton's friend, presided at the trial. He refused to give the public prosecutor time to summon the Boston and New York publishers who were supposedly acquainted with the authorship of the diary, and in the end the District Attorney had to abandon the case.
46. Thomas F. Pendel: *Thirty-Six Years in the White House* (Neale Publishing Company, Washington, 1902), pp. 27, 28.
47. Lamon, *op. cit.*, pp. 266-268.
48. *Philadelphia Times*, August 18, 1876.
49. Otto Eisenschiml: *Why Was Lincoln Murdered?* (Little, Brown & Company, Boston, 1937), p. 209; Pitman, *op. cit.*, (testimony of Samuel K. Chester) p. 45.

50. Pitman, *op. cit.*, p. 118.
51. Lamon, *op. cit.*, p. 259.

CHAPTER II

1. C. Chiniqui: *Fifty Years in the Church of Rome* (Robert Banks & Son, London, 1886), pp. 734-735.
2. All the letters or excerpts quoted in this chapter, unless otherwise indicated, may be found in the War Department Archives, State, War and Navy Building, Washington, D.C.

CHAPTER III

1. New York *Tribune*, April 28, 1865. See also *Official Records of the Union and Confederate Armies* (hereafter referred to as O.R.), Series I, Vol. 46, part 3 (Washington, Government Printing Office, 1894), p. 987.
2. James W. Shettle: "John Wilkes Booth at School", New York *Dramatic Mirror*, February 26, 1916; also quoted in Francis Wilson: *John Wilkes Booth* (Houghton Mifflin Company, Boston, 1929), pp. 198, 199; Lafayette C. Baker: *History of the United States Secret Service* (Philadelphia, 1867), p. 505.
3. *The Mark of the Scalpel* (Original manuscript in the Library of Congress), pp. 7, 11.
4. *The Hardman Papers* (Edited by S. M. Ellis. Richard R. Smith, Inc., New York, 1930), p. 18.
5. *Impeachment Investigation*. Testimony taken before the Judiciary Committee of the House of Representatives in the Investigation of the Charges against Andrew Johnson, second session, 39th Congress, and first session, 40th Congress, 1867. (Washington, Government Printing Office, 1868.) Pages 408, 409.
6. Laughlin: *The Death of Lincoln*, p. 155; O. H. Oldroyd: *Assassination of Abraham Lincoln* (Washington, 1901), p. 79.
7. This testimony and that of other witnesses on the *Montauk* may be found in the War Department Archives.
8. O.R., I, Vol. 46, part 3, pp. 847, 782.
9. "He was . . . rather lacking in height . . ." Clara Morris: "Some Recollections of John Wilkes Booth" (*McClure's Magazine*, February, 1910), p. 299; "His one physical defect was his height . . ." Sir Charles Wyndham, quoted in Wilson: *John Wilkes Booth*, p. 15.
10. George Alfred Townsend: *Life, Crime and Capture of John Wilkes Booth* (Dick & Fitzgerald, New York, 1865), p. 38.
11. Seaton Munroe: "Recollections of Lincoln's Assassination." (*North American Review*, April, 1896), p. 432.
12. O.R., I, Vol. 46, part 3, p. 963. Author's italics.
13. *Century Magazine*, January, 1890, p. 444. Author's italics.
14. Eleanor Farjeon (Ed.): *The Unlocked Book. A Memoir of John Wilkes Booth by His Sister Asia Booth Clarke* (Faber and Faber, Ltd., London; G. P. Putnam's Sons, New York, 1938), p. 60.
15. "The Mark of the Scalpel". *Records of the Columbia Historical Society*,

Vol. 13, 1910, pp. 51-68. A comparison between this and the original manuscript in the Library of Congress shows some interesting corrections.

16. *Ibid.*, p. 55.
17. The word "imperfectly" was inserted later in the original manuscript, while an undecipherable word before "features" was crossed out.
18. War Department Archives.
19. Originally, the report read: "From the wound, I think I could not be; but I also recognize the features."
20. The words "I think I cannot be mistaken" seem to have been inserted afterward. All alterations in the original report are in Doctor May's handwriting.
21. *Surratt Trial*, I, 270. Author's italics.
22. *Records of the Columbia Historical Society*, Vol. 13, p. 53.
23. Farjeon, *op. cit.*, p. 117.
24. The possibility has been considered that the freckles reported by Doctor May were not real freckles (pigmented deposits) but a mottling of the skin (accumulations of congealed blood), due either to the broken leg or the exposures and privations of the fugitive actor, or to the gunshot wound through the neck which caused his death.
 Expert medical opinion holds that neither a broken leg nor the vicissitudes endured during Booth's flight would have brought about a mottling of his face. This could only have resulted if blood poisoning had set in. Doctor Mudd reported the breaking of Booth's leg as a simple, not a compound, fracture; the skin therefore had not been broken, and blood poisoning from that source could not have occurred.
 If Booth's corpse was kept face downward during his transport to Washington (after his arrival on the gunboat he was laid on his back), mottling could have been brought about. Doubt is expressed, however, that such a phenomenon would have deceived a physician like Doctor May, especially when his observations were taken in broad daylight.
 Medical authorities consulted were Dr. Clark W. Finnerud, Assistant Clinical Professor of Dermatology, Rush Medical College, Chicago; Dr. David Lieberthal, Senior Dermatologist, Michael Reese Hospital, Chicago; Dr. William Allen Pusey, Professor of Dermatology, Emeritus, University of Illinois College of Medicine, Chicago; Dr. Herbert Rattner, Associate in Dermatology, University of Illinois College of Medicine, Chicago; Dr. Francis Eugene Senear, Fellow of the American College of Physicians, Professor of Dermatology, University of Illinois College of Medicine and Head of the Department of Dermatology; Dr. Arthur William Stillians, Professor of Dermatology, Northwestern University Medical School, Chicago; Dr. Cleveland J. White, Assistant Professor of Dermatology, Northwestern University Medical School, Chicago.
25. Thomas A. Jones, quoted by Townsend: "How Wilkes Booth Crossed the Potomac" (*Century Magazine*, April, 1884), p. 828.
26. "The Mark of the Scalpel", p. 8.
27. Munroe, *op. cit.*, p. 431.
28. War Department Archives.
29. Shettle, *op. cit.*
30. Laughlin, *The Death of Lincoln*, p. 154; Dr. George Loring Porter, "How Booth's Body Was Hidden" (*Magazine of History*, Vol. 38, No. 1, Extra Number 149), p. 24.

31. See Doctor Mudd's report in Eisenschiml, *op. cit.*, pp. 254-258.
32. April 29, 1865.
33. It is noteworthy that Conger and Baker had been equipped with pictures of the real John Wilkes Booth, and not with likenesses of his famous brother Edwin, as probably had other pursuers. This fact becomes clear from the statement of the ferryman Rollins who had taken both the assassin and Baker's men across the Rappahannock.
 "This picture of Booth," Rollins had stated in his affidavit on April 25, 1865, "is the likeness of one of the men—he however had his moustache off—the other one is Herold." All the pictures of the assassin show him with a moustache, while his brother Edwin was always clean shaven. See Eisenschiml, *op. cit.*, pp. 263-265; War Department Archives.
34. Pitman, *op. cit.*, p. 93.
35. Eisenschiml, *op. cit.*, p. 264.
36. *Impeachment Investigation*, p. 487.
37. "An Interesting Letter About the Death of John Wilkes Booth", written in 1907 by the Rev. R. B. Garrett to General A. R. Taylor. Published for the Oakwood Lincoln Club by Judge James W. Bollinger, Davenport, Iowa, 1934. By courtesy of Judge Bollinger.
38. Wilson, *op. cit.*, pp. 290, 293-295. Wilson, who endeavored to prove that the body at Baltimore was that of Booth, obtained a letter from the actress Blanche Chapman, who had been present on that occasion, and who repeated to him more elaborately a vivid description of what had happened in her presence, and of which she had rendered an earlier account in 1903.

It was during a rehearsal at the old Holliday Street Theatre . . . that Mr. John Ford came on the stage and . . . walked over to me, took both my hands in his, and said; "Blanche, I want you to keep your eyes and ears open and your mouth shut." He then walked me . . . across the street to Weaver's undertaking establishment. . . . I greeted Mrs. Booth and Rosalie and turned to look at what seemed to me like a mummy wrapped in a brown-colored sort of blanket. The eyes and nose, though shrunk a little, had not receded as is usual. The skin was brown and shriveled, the lips gone, and wonderful teeth were exposed. . . . The first to speak was Mr. 'Joe' Booth, or 'Doc' Booth, as he was called . . . He said: "If this is the body of John Wilkes Booth (he never once referred to him as 'brother') it has but one plugged tooth in its head." Mr. Weaver showed a dentist's chart which Mr. Booth took and handed to Mr. Bishop [an actor in John Ford's company]. Taking hold of and drawing down the lower jaw, Mr. Bishop . . . took out the plugged tooth and showed it to all of us.

Miss Chapman then saw, after the blanket had been removed, a slit shoe and a broken bone and received a strand from a large lock that hung over the forehead of the dead man's body.

"As we left the front office," so Miss Chapman continued, "H. Clay Ford . . . remarked to me, 'I could see every feature in that face of John Wilkes Booth?' . . . *All present felt that it was a perfect identification.*"

39. One Colonel William M. Pegram of Baltimore wrote in the Maryland Historical Magazine (Vol. 8, 1913, pp. 327-331) that he had examined the body and that the right leg had been encased in a cavalry boot, while the left leg was disjoined both at the knee and ankle. "The skin was still

drawn tightly over the grinning skull," he recalled, "which showed the splendid teeth for which Booth was noted, there being only a single filling which was identified by the dentist who did the work. The coal-black hair . . . had grown . . . nearly a foot . . . The family fully identified the body . . ." This time the dentist was there by proxy only; which may account for the discrepancy between his findings and those of the shadowy Doctor Merrill four years earlier.

Clara E. Laughlin gives a colorful picture of the scene at the undertaking establishment in her book *Traveling Through Life* (pp. 106-107). While collecting material for her book on the death of Lincoln, Miss Laughlin met Mr. James Croggan, a reporter for the *Washington Star* back in 1865, and from him she received some unusual information. Of course, forty odd years had passed in the meantime, which must be kept in mind in evaluating Croggan's testimony.

" . . . late one afternoon in February, '69," Miss Laughlin relates, " . . . Mr. Croggan was stopped in the street not far from Ford's Theatre, and told that if he'd be in a certain undertaker's shop on F Street, around 5 or 6 o'clock, he'd see something interesting.

"He was there. The back door of this shop opened on the alley behind Ford's Theatre . . . at almost precisely the spot where Johnnie Booth's horse stood waiting for his wild ride following the assassination.

"In the gloaming of that chill February afternoon, there was gathered in the carpenter shop of that undertaker, unlighted save by a lantern, a small group of tense people. Up the alley came the undertaker's wagon, and from it was borne a wooden box, which was laid on a carpenter's trestle in the shop.

"Johnnie was back where his flight had begun! Back after nearly four years.

"The boards on the top of the box were pried off and an old army blanket disclosed. Everyone gathered close, as the lantern was held near and the blanket turned back.

"For a moment, Mr. Croggan said, Johnny was as completely recognizable, almost, as if alive; then there was quick disintegration. Further identification was made by Johnnie's dentist and others, to satisfy the Booth family that the body turned over to them for burial . . . was actually that of the young man who had broken all their hearts . . ."

The fact that the identification was attempted in the dusk of a winter afternoon, "unlighted save by a lantern", does nothing to dispel the impression of inexcusable, if not willful, carelessness which all these mysterious doings must leave in the minds of even the most benevolent critics.

As there were no formal proceedings held to identify the body in Baltimore, no sworn testimony was taken, and whatever identifications were made were not officially recorded. What weakens all these reports still more is the late date at which they were assembled. Colonel Pegram made his statement only after Finis Bates' book, *The Escape and Suicide of John Wilkes Booth* (Memphis, 1907), had aroused his ire, some forty-eight years after the event. Miss Chapman did not write to Mr. Wilson until 1927, and evidently leaned heavily on her previous recollections.

But even disregarding these regrettable circumstances, one could pick plenty of flaws in Wilson's witnesses, if one were so inclined. Why, for instance, did Mr. Ford ask Miss Chapman to keep her eyes and ears open

but her mouth shut? Was silence imposed on her to prevent her from exclaiming that the body she beheld bore no resemblance to the dead actor? Was she admonished to keep as a secret something the outside world was not supposed to learn? One should think that, on the contrary, if the examination was held for the purpose of proclaiming that the body undoubtedly, and without qualification, was that of John Wilkes Booth, secretiveness on the part of eyewitnesses would have been the least desirable requirement.

Another curious point is Dr. Joseph Booth's failure to acknowledge any relationship to the dead actor. He called him Mr. Booth and "he never once referred to him as 'brother'", Miss Chapman declared. This peculiar behavior must have made a deep impression on the young actress if she still emphasized it almost sixty years later.

Another strange incident was Mr. H. Clay Ford's remark that "he could see every feature in that face of John Wilkes Booth." Colonel Pegram described the face as a grinning skull, and Miss Chapman herself noticed the shriveled skin and the missing lips. Miss Chapman later married Mr. H. Clay Ford. Was she thus delicately warned what to think and say? Her real thoughts are not revealed in her narrative; she only states evasively that the Booths would hardly have buried anyone in the Booth lot if they had not been positive it was John's body, and that "all present felt that it was a perfect identification." Yet, as there was no skeptic present to ask who had provided the dentist's chart and other pertinent questions, there was no reason why the small circle of witnesses should not have felt satisfied.

CHAPTER IV

1. Pitman, *op. cit.*, p. 92.
2. *Ibid.*
3. *Impeachment Investigation*, pp. 480, 481.
4. Pitman, *op. cit.*, p. 94.
5. *Impeachment Investigation*, p. 482.
6. *Ibid.*, pp. 480, 481.
7. *Ibid.*, p. 482. Author's italics.
8. *Ibid.*
9. *Ibid.*, p. 480.
10. *Ibid.*, p. 485.
11. Pitman, *op. cit.*, p. 95.
12. War Department Archives.
13. The identification could have been technically contested in both cases, but was undoubtedly correct. The stableman Fletcher, who testified that he saw Herold ride toward the Anacostia bridge shortly after the assassination, made his observation under the uncertain gaslight of Pennsylvania Avenue and was probably more certain of the horse than of the rider. He was standing under a light himself and was therefore handicapped (Pitman, *op. cit.*, p. 84). Sergeant Cobb, who got a good view of Herold, did not identify him at all. "He is very near the size of the second horseman," he said; "but, I should think, taller, although I can not be sure . . . He had a lighter complexion than this man. . . ." Nevertheless, there is no reason to doubt that Herold was on the Washington side of the Anacostia River

- at the time of the assassination and that both Fletcher's and Cobb's statements are substantially correct. See also, Eisenschiml, *op. cit.*, pp. 107-115; *The Conspiracy Trial* (hereafter referred to as C.T.), edited by Ben Perley Poore, J. E. Tilton & Co., Boston, 1865, Vol. I, pp. 329-330; Pitman, *op. cit.*, p. 85.
14. Alfred C. Gibson's story, "Did John Wilkes Booth Escape?" by Charles G. Reinhart. Unidentified newspaper clipping.
 15. September 4, 1898.
 16. *Escape and Suicide of John Wilkes Booth*, p. 167.
 17. *Surratt Trial*, I, 302, 303.
 18. Wilson, *op. cit.*, p. 212.
 19. "An Interesting Letter About the Death of John Wilkes Booth," *op. cit.*
 20. C.T., I, 325; Pitman, *op. cit.*, p. 94.
 21. Baker, *op. cit.*, p. 502; Townsend: *Life, Crime & Capture of John Wilkes Booth*, p. 36.
 22. Pitman, *op. cit.*, p. 92.
 23. *Impeachment Investigation*, p. 488.
 24. Verbal statement to the author by Luther H. Baker of Lansing, Michigan.
 25. Forrester, *op. cit.*, pp. 434-435 (Hale, Cushman & Flint, Boston, 1937).
 26. Eisenschiml, *op. cit.*, pp. 116, ff.
 27. Forrester, *op. cit.*, pp. 303-304.
 28. Laughlin: *The Death of Lincoln*, p. 313; Report No. 99, 39th Congress, p. 3.
 29. O'Beirne papers, in possession of the author.
 30. Forrester, *op. cit.*, p. 288.
 31. Pitman, *op. cit.*, p. 92.
 32. *Surratt Trial*, I, 306, 307, 308.
 33. Pitman, *op. cit.*, p. 95.
 34. *Surratt Trial*, I, 304-305.
 35. One of the clues that should have been followed by all means, so Miss Forrester soundly reasons (See *This One Mad Act*, pp. 287-288), was the unexplained absence of the Garrett horse or horses in the morning. When the body of the man around whom all this mystery was destined to form was sewed up in a blanket, a horse had to be secured from a negro living in the neighborhood. Neither the soldiers, nor the detectives on the spot, nor their superiors in Washington, ever evinced any curiosity about the animal which the Garretts had been guarding with such care; nor did the various members of that family, expansive as they were in their stories later on, ever again refer to this subject. So far as the soldiers were concerned, they were probably too elated or too sleepy, or both, to give the matter much thought. If they remembered it afterward, they would scarcely have cared to mention their delinquency, any more than they mentioned the side and rear doors of the barn. The Garretts, on the other hand, had equally good reasons for silence. If they had kept the horse hidden after the death of their guest, they had obstructed the Federal authorities in removing the body, and there was no sense in talking about it. If they had let Booth steal it, with or without their connivance, they were eligible for court-martial. All this is understandable; what is difficult to explain is that no one in Washington, reporters and detectives alike, asked themselves why the Garretts had locked the barn at all. The Garretts told Lieutenant Baker that they thought Booth and his accomplice were desperate cases (See *Impeachment Investigation*, p. 480). It was a clever pretense, but not

a plausible one. Booth and Herold had been trusted guests for two days and when they suddenly became the objects of a man hunt, they were not being hunted by the police, but by the soldiery. That a horse might have been the cause of their precautions occurred to no one. No such animal was mentioned by the Garretts at that time; nor was one mentioned in the current newspapers or during the conspiracy trial. In fact, it was not until 1901 that O. H. Oldroyd, in an interview with one member of the family, brought this fact to light. (*The Assassination of Abraham Lincoln*, pp. 298-299. Washington, 1917.)

The locking of the barn door by the Garrett boys is proof that originally they were not inclined to let Booth have their horse. They could have changed their minds during the night, however. From the moment the Federal troopers entered their yard, the Garretts may have considered themselves allies of the fugitives against a common enemy. One of the two sons was sent into the shed to parley with Booth. It is possible that he used this opportunity to show the assassin the rear door and confide to him where the horse was hidden. There is no evidence whatever that this happened, but there naturally would not be any, unless Herold had chosen to speak out. The Garretts would have been wiser to keep this secret for the remainder of their lives.

36. Author's italics.

37. "The Death of J. Wilkes Booth. A Narrative of the Pursuit, Capture and Killing of the Assassin of President Lincoln. . . ." By Boston Corbett. Unidentified newspaper clipping.

38. Papers of Albert Gallatin Riddle in the Western Reserve Historical Society, Cleveland. In all probability, the barn was considerably smaller than Baker's estimate.

39. Author's italics.

40. *Congressional Globe*, July 26, 1866, pp. 4187, 4188.

41. Baker, *op. cit.*, p. 541.

42. Velasquez: *Story of the Civil War* (C. J. Worthington, Ed., New York, 1890), p. 515.

43. *Ibid.*, p. 517. Author's italics.

44. *Ibid.*, p. 10.

45. In his article "John Wilkes Booth On Tour" (*Saturday Evening Post*, February 19, 1938), Alva Johnston quotes an assertion made by a soldier named Kenzie in the Beloit, Wisconsin, *Daily News* of April 20, 1898, that the man who died at Garrett's farm was red-haired. The author has in his possession some hairs purported to have come from that man's head. Dr. Charles S. Webb of Bowling Green, Virginia, received them from Miss Lucinda Holloway who claimed to have cut them off when the victim of Boston Corbett's bullet expired in her arms. Under a microscopic examination by Dr. C. W. Muehlberger of the Northwestern University Scientific Crime Detection Laboratory, these seven hairs were found to be black and inclined to curl, as was Booth's hair. J. M. Peddicord's statement is also to the effect that the lock of hair which he had cut from the corpse on the *Montauk* was black and soft. The author obtained from Mrs. Peddicord some hairs, supposedly cut from the head of the body on the *Montauk*. These strands, examined by Doctor Muehlberger, proved entirely unlike Booth's hair. Upon investigation it was found that Doctor

Peddicord at one time had let the hair out of his possession when an actress who called upon him claimed to be one of Booth's relatives.

Kenzie claimed to have lifted the covering blanket from the corpse on Garrett's porch and to have observed that the dead man had a ruddy complexion and red hair. The porch of Garrett's house was built on the north side, so George Alfred Townsend reported (*Life, Crime & Capture of John Wilkes Booth*, p. 30), and stood west by west by south to east by east by north. As the sun was then just rising, its slanting rays may well have created the illusion of a red coloring.

46. Story related to James N. Wilkerson, Kansas City, by residents of Caroline County, Virginia, and printed with his permission. Mr. Wilkerson also suggests the possibility that the corpse taken from the tobacco shed might have been exchanged for another while being taken to Washington. This hypothesis demands that another corpse, properly tattooed and provided with a broken leg, was held in readiness along the route to the capital and, therefore, presents the same difficulties as the assumption of an earlier substitution.
47. *Impeachment Investigation*, p. 481. Author's italics.
48. Wilson, *op. cit.*, p. 248; Forrester, *op. cit.*, pp. 459-470.
49. Confirmative letters of Blanche DeBar Booth are in the possession of Walter S. Holden, Chicago, and are quoted by his courtesy. See also Forrester, *op. cit.*, pp. 405-406.
50. Reprinted in the *Kansas City Star* of February 12, 1920. By courtesy of Dr. Louis A. Warren, Lincoln National Life Foundation, Fort Wayne, Indiana.
51. The only detail in Mrs. Allen's story which lends itself to verification—that her husband was one of the soldiers at Garrett's farm—stands disproved by the list in the *Congressional Globe*, July 26, 1866, of those given awards.
52. F. L. Bates, *op. cit.*
53. *This One Mad Act*.
54. Expert technical opinion is unanimous in maintaining that, barring extraordinary soil conditions, the boot would be in a good state of preservation today. Samples of vegetable-tanned leather (Booth's riding boot was probably tanned in that manner) said to have been under water for one hundred years have been recovered in sound condition, and specimens from the Stone Age are available which are well enough preserved to allow identification of the type of animal from which the hide was taken.

The boot was most likely curried and dressed with a combination of tallow and cod oil, a mixture freely used at that time. This treatment increases the natural resistance of leather to decomposition. The point is also made that in the early sixties of the last century practically all footwear was custom made. Sewing of all parts was substantial, and the thread used was protected by beeswax.

If the two boots were compared today, they could also be identified as mates by the individual pattern, by the style of toe, the lacings, eyelets, buttons, etc.; by a microscopic inspection of the hide; by an analysis of the oils or fats used, if present; by the identification of the tanning material, and by the general construction.

The boot now in Washington is probably unaltered in size or form, unless the leather contained an unusually large amount of acid, which is

unlikely. The buried boot would probably not have changed in size more than five percent at the most.

The Florsheim Shoe Company, Chicago, has in its possession a shoe made in 1881 which has undergone no measurable change, after having been stored under ordinary atmospheric conditions.

Authorities consulted were August C. Orthmann, Milwaukee, Wisconsin; John J. White, general superintendent of the Florsheim Shoe Company, Chicago; Dr. John Arthur Wilson, Buford, Georgia.

55. It is the universal opinion of all dermatologists consulted that tattoo marks, if properly applied, cannot be removed without leaving visible traces; if, as in Booth's case, India ink was used and the marks have lasted over one year, they are regarded as permanent.

Correct tattooing is done by the introduction of a pigment into the second layer of the skin (corium). There the small particles of pigment become encapsulated in the flesh. In the case of India ink, carbon is the pigment used and, being insoluble in all body liquids, it becomes a permanent part of the tissue. Wherever tattoo marks disappear it is due to the use of nondurable tinting materials, such as ordinary ink, or to their improper introduction, either above the second layer of the skin or below it. The top layer (epidermis) gradually scales off, and particles in the deepest layer are liable to be carried away by the blood stream.

To remove tattoo marks it is necessary to destroy the skin in which the pigment is embedded. This can be done by electrolysis or by an irritant which sets up an inflammatory process burning the superficial layers of the skin. For this purpose chromic acid, carbolic acid, acetic acid, potassium nitrate and others have been suggested. Experiments have also been made to tan the skin and thereby deaden the tissue, so that it gradually dies off.

The removal of tattoo marks by means of an electric needle requires great skill. It is only in exceptional cases that it can be done without leaving scars. Ordinarily, the operation leaves a pinkish, slightly wrinkled surface, similar to cigarette paper, showing plainly the outline of the tattoo marks.

The author has made experiments with a "guaranteed" preparation sold by tattooing artists. The subject had borne the tattoo marks for forty years. Although the directions were followed exactly and a violent reaction of the skin took place, the final results were nil.

Authorities consulted were Dr. Clark W. Finnerud, Assistant Clinical Professor of Dermatology, Rush Medical College, Chicago; Wilhelm Joest: *Taetowieren* (A. Asher & Co., Berlin, 1887); Dr. David Lieberthal, Senior Dermatologist, Michael Reese Hospital, Chicago, Professor of Dermatology and Head of the Department of Dermatology, Loyola University Medical School, Chicago; A. H. Ohman-Dumesnil, A.M., M.D.: "Tattooing and Its Successful Removal", *New York Medical Journal*, May 20, 1893; Dr. Oliver S. Ormsby, Chairman of the Department of Dermatology and Clinical Professor of Dermatology, Rush Medical College, Chicago; Albert Parry: *Tattoo* (Simon and Schuster, New York, 1933); Dr. William Allen Pusey, Chicago, Professor of Dermatology, Emeritus, University of Illinois College of Medicine, President, American Medical Association, 1924-1925; see also Doctor Pusey's article on tattoo marks in *A Reference Handbook of the Medical Sciences*, edited by Thomas Lathrop Stedman, M.D. (William

- Wood and Company, New York, 1917), Vol. VIII, p. 102; Dr. Herbert Rattner, Associate in Dermatology, University of Illinois College of Medicine, Chicago; Dr. E. Riecke: *Das Tatauierungswesen im heutigen Europa* (Jena, 1925); Dr. Francis Eugene Seneat, Chicago, Fellow of the American College of Physicians, Professor of Dermatology, University of Illinois College of Medicine, also Head of the Department of Dermatology; Marvin D. Shie, M.D.: "A Study of Tattooing and Methods of Its Removal" (*Journal of the American Medical Association*, January 14, 1928); Dr. Arthur William Stillians, Professor of Dermatology, Northwestern University Medical School, Chicago; Dr. Cleveland J. White, Assistant Professor of Dermatology, Northwestern University Medical School, Chicago.
56. "Shattering the Myth of John Wilkes Booth's Escape", November, 1924.
 57. February 7 to May 2, 1925.
 58. Shepard, *op. cit.*, p. 719.
 59. Confirmed in Wilson, *op. cit.*, p. 274.
 60. Morris, *op. cit.*; Wilson, *op. cit.*, p. 10; Farjeon, *op. cit.*, p. 118; Eisenschiml, *op. cit.*, p. 209.
 61. This account was written in 1884 by the Adjutant General from official records. E. D. Townsend: *Anecdotes of the Civil War* (D. Appleton-Century Company, New York, 1884), pp. 152-160.

CHAPTER V

1. Pitman, *op. cit.*, p. 115; *Surratt Trial*, I, 369.
2. *Washington Daily Morning Chronicle*, May 21, 1867.
3. Pitman, *op. cit.*, p. 116.
4. *Surratt Trial*, I, 405.
5. Baker, *op. cit.*, pp. 560-561.
6. *Washington Daily Morning Chronicle*, May 21, 1867.
7. *Surratt Trial*, I, 693.
8. *Ibid.*, p. 694.
9. Pitman, *op. cit.*, p. 137.
10. *Ibid.*, p. 127.
11. *Washington Daily Morning Chronicle*, May 21, 1867.
12. *Surratt Trial*, I, 376.
13. *Ibid.*, pp. 408, 409.
14. *Ibid.*, p. 410.
15. Pitman, *op. cit.*, p. 131.
16. Baker, *op. cit.*, p. 562.
17. Anna Surratt's statement, War Department Archives.
18. *Surratt Trial*, I, 376, 394.
19. Pitman, *op. cit.*, p. 139.
20. *Surratt Trial*, I, 487.
21. Pitman, *op. cit.*, p. 131.
22. *Surratt Trial*, I, 488.
23. *Ibid.*, p. 667.
24. *Ibid.*, pp. 650, 669.
25. *Ibid.*, p. 674.
26. Pitman, *op. cit.*, p. 115.
27. War Department Archives, statement April 28, 1865.

28. William P. Wood in the *Washington Sunday Gazette*, October 28, 1883.
29. *Surratt Trial*, I, 411.
30. *Ibid.*, p. 439. As an employee of the War Department, Wiechmann was a member of a military organization.
31. *Ibid.*, pp. 435, 754.
32. *Ibid.*, pp. 467-468; testimony of Lewis J. A. McMillan.
33. Pitman, *op. cit.*, pp. 133, 116.
34. *Surratt Trial*, I, 387, 374.
35. Pitman, *op. cit.*, pp. 114, 115.
36. Baker, *op. cit.*, p. 563.
37. *New York Times Magazine*, April 9, 1916. Article by Edward V. Murphy.
38. Pitman, *op. cit.*, p. 116.
39. *Ibid.*, p. 126. Punctuation as in original letter, War Department Archives.
40. T. M. Harris: *Assassination of Lincoln* (American Citizen Co., Boston, 1892), p. 206.
41. *Surratt Trial*, II, 755.
42. Pitman, *op. cit.*, p. 420 (Wiechmann affidavit); *Surratt Trial*, I, 280 (testimony of John M. Lloyd).
43. War Department Archives.
44. *Impeachment Investigation*, p. 777.
45. War Department Archives.
46. *Ibid.* Statement to Colonel Olcott, April 28, 1865.
47. *Surratt Trial*, II, 1098.
48. War Department Archives. Statement of April 17, 1865.
49. Statement of April 28, 1865.
50. Statement of April 17, 1865.
51. *Surratt Trial*, I, 693.
52. House of Representatives, 39th Congress, 1st Session, Report No. 99, pp. 1, 2.
53. Report of Colonel H. S. Olcott to Colonel H. L. Burnett, April 28, 1865, War Department Archives; Eisenschiml, *op. cit.*, Illustration No. 13.
54. War Department Archives.
55. *Impeachment Investigation*, pp. 777, 778.
56. Printed in the *Chicago Herald & Examiner*, April 9, 1922.
57. Cedar Springs (Mich.) *Clipper*, February 12, 1931.

CHAPTER VI

1. *The Old Capitol and Its Inmates*. By a Lady who enjoyed the hospitalities of the Government for a "Season" (E. J. Hale & Son, New York, 1867), p. 83, ff. The Newberry Library, Chicago, suggests Virginia Lomax as the probable author.
2. Probably St. Patrick's Church.
3. Probably Father Wiget or Father Walter.
4. *The Old Capitol and Its Inmates*, pp. 133, ff.
5. *Ibid.*, pp. 171, ff.
6. *Washington Sunday Gazette*, November 4, 1883.
7. September 2, 1873.
8. C.T., I, 11.
9. DeWitt: *Assassination*, p. 280.

10. New York *Tribune*, September 12, 1873.
11. New York *Tribune*, September 2, 1873.
12. *Ibid.*, September 11, 1873.
13. Colonel Henry L. Burnett: "Assassination of President Lincoln and the Trial of the Conspirators." Published in *History of the Ohio Society of New York, 1885-1905*, edited by James H. Kennedy (The Grafton Press, New York, 1906), p. 609.
14. September 19, 1873.
15. Broadway Note Book, New York *Tribune*, June 17, 1883.
16. New York *Tribune*, September 11, 1873.
17. New York *Press*, September 4, 1898.
18. Father Jacob A. Walter: "A True Statement of Facts Regarding the Surratt Case." *Catholic Review*, August 29, 1891.
19. Broadway Note Book, New York *Tribune*, June 17, 1883.
20. William E. Doster; *Lincoln and Episodes of the Civil War* (G. P. Putnam's Sons, New York, 1915), p. 276. This and other material concerning Doster is used by courtesy of his son, Wadsworth Doster, Pittsburgh.

CHAPTER VII

1. Eisenschiml, *op. cit.*, pp. 179-180.
2. John W. Clappitt: "The Trial of Mrs. Surratt" (*North American Review*, September, 1880), pp. 234-235.
3. Eisenschiml, *op. cit.*, pp. 190-192.
4. Washington *Sunday Gazette*, October 28, 1883. Author's italics.
5. *Ibid.*
6. David M. DeWitt: *The Judicial Murder of Mary E. Surratt* (John Murphy & Co., Baltimore, 1895), p. 120. According to Doster, *op. cit.*, p. 271, the sentence was not read to the prisoners until the afternoon.
7. *The Catholic Review*, *op. cit.*, p. 140.
8. DeWitt: *Assassination*, p. 249.
9. A. E. H. Johnson: "Reminiscences of Edwin M. Stanton." (*Records of the Columbia Historical Society*, Vol. 13, pp. 87-88. Washington, 1910.)
10. John T. Ford: "Behind the Curtain of a Conspiracy." (*North American Review*, April, 1889, p. 492.)
11. Interviewed in the Chicago *Times-Herald*, March 23, 1895.
12. *The Catholic Review*, August 29, 1891. Punctuation changed by author.
13. Doster, *op. cit.*, p. 276.
14. Horatio King: "Judge Holt and the Lincoln Conspirators" (*Century Magazine*, April, 1890, p. 955).
15. *The Catholic Review*, August 29, 1891. Author's italics.
16. Author's italics.
17. Author's italics.
18. "Two reporters of the *Tribune* called on me to ascertain the truth of the matter; I told them . . . The next day they published verbatim what had passed between Colonel Hardie and myself. . . ." Father Walter in *The Catholic Review*, August 29, 1891.
19. Published in the New York *Tribune*, July 17, 1865.
20. Forney's Philadelphia *Press*. His Washington *Chronicle* also carried this article.

21. Washington *Sunday Gazette*, November 4, 1883.
22. " . . . Major General Hancock was telegraphed to go and see Archbishop Spalding, so as to prevent me from asserting the innocence of Mrs. Surratt. I received a telegram from the Archbishop's secretary, asking me to keep quiet . . . in regard to the innocence of Mrs. Surratt. My answer was, that what he requested was hard to comply with, but I would try to do so." Father Walter in *The Catholic Review*, August 29, 1891.
23. Father Wiget died shortly afterward, and of his experiences there is no record. He had not visited Mrs. Surratt in her cell and apparently had only helped lead her to the gallows.
24. C.T., I, 54; Bernard C. Steiner: *Life of Reverdy Johnson* (The Norman, Remington Co., Baltimore, 1914), p. 115.
25. Steiner, *op. cit.*, p. 65.
26. Information received by courtesy of Mr. Charles E. Mason, Waukegan, Illinois.
27. Broadway Note Book, New York *Tribune*, June 10, 1883. By courtesy of Lloyd Lewis.
28. Doster, *op. cit.*, p. 264.
29. Welles: *Diary*, III, 58, 56.
30. Arnold, *op. cit.*
31. Doster, *op. cit.*, p. 260.
32. Broadway Note Book, New York *Tribune*, June 17, 1883.
33. Chicago *Times-Herald*.
34. Pages 136-137. (Belford, Clarke & Co., Chicago, 1898.)

CHAPTER VIII—PART I

1. Clampitt, *op. cit.*, p. 230.
2. *Ibid.*, p. 235.
3. Printed in The Broadway Note Book, New York *Tribune*, June 10, 17, 1883.
4. Doctor Mudd died on January 10, 1883.
5. Doster, *op. cit.*, p. 46.
6. *Ibid.*, pp. 131, 132.
7. *Ibid.*, p. 257.
8. *Ibid.*, pp. 260-261.
9. *Ibid.*, p. 263.
10. Pitman, *op. cit.*, p. 353.
11. Doster, *op. cit.*, p. 263.
12. *Ibid.*, p. 264.
13. *Ibid.*, p. 272.
14. *Ibid.*, pp. 269-270.
15. *Ibid.*, p. 275.
16. *Ibid.*, pp. 273-274. Doster's papers disclose that his charge for Atzerodt's defense was \$375.00. A payment of \$75.00 was received in June, 1865, but as the cashbook shows no further entry (it was examined up to 1877), Doster probably was unable to collect the remainder of his fee.
17. *Ibid.*, pp. 274-275.
18. Doster called him *Fairchild*.
19. *Ibid.*, pp. 276, 275.

20. *Ibid.*, p. 271.
21. *Ibid.*, p. 275.
22. *Ibid.*, pp. 276, 277.
23. *Ibid.*, p. 277.
24. *Ibid.*, pp. 281-282.

CHAPTER VIII—PART II

1. Original letter in the possession of the author.
2. Eisenschiml, *op. cit.*, pp. 305-306.
3. The so-called Chicago conspirators were accused of having engaged in the attempted release of the Confederate prisoners at Camp Douglas, the entrance to which was on what is now Cottage Grove Avenue and 32d Street. Colonel Grenfel was sent to the Dry Tortugas, where he became acquainted with Doctor Mudd and the other State prisoners. He was cruelly tortured and finally escaped, but most likely perished before reaching firm land. (Arnold, *op. cit.*)
4. Burnett, *op. cit.*, p. 609.
5. *Ibid.*
6. *Ibid.*, p. 599.
7. *Ibid.*, p. 610.
8. Washington *Daily Morning Chronicle*, August 26, 1873.
9. "The Controversy Between President Johnson and Judge Holt", by Henry L. Burnett. Published in *Personal Recollections of the War of the Rebellion*. Addresses delivered before the New York Commandery of the Loyal Legion of the United States, 1883-1891 (Ed. by James Grant Wilson, Titus Munson Coan, M.D., The Commandery, New York, 1891), pp. 211-234.
10. DeWitt: *The Judicial Murder of Mary E. Surratt*, pp. 257-258.

CHAPTER VIII—PART III

1. *Assassination of Lincoln. A History of the Great Conspiracy, op. cit.*
2. *Ibid.*, p. 11
3. *Ibid.*, pp. 210, 7. Another story which gained considerable credence concerned the Assistant Judge Advocate John A. Bingham; it was rumored that after the trial he never dared sleep in a dark room. This rumor is branded as false by Mr. H. B. McConnell, proprietor and editor of the Cadiz (Ohio) *Republican*, who knew Bingham and who made exhaustive inquiries among Bingham's surviving neighbors. (Letters to the author.)
4. Harris, *op. cit.*, pp. 25, 31.
5. *Ibid.*, p. 27.
6. Pitman, *op. cit.*, pp. 109, 110.
7. Harris, *op. cit.*, p. 52.
8. *Ibid.*, p. 165.
9. Eisenschiml, *op. cit.*, p. 217; Laughlin: *The Death of Lincoln*, p. 210.
10. Harris, *op. cit.*, p. 165.
11. Used by courtesy of Mr. Milton Ronsheim, Cadiz, Ohio.
12. Harris, *op. cit.*, p. 195.

13. Lew Wallace: *Lew Wallace, An Autobiography* (Harper & Brothers, New York, 1906), II, p. 848.
14. *Ibid.*, II, 850-851.
15. *Ibid.*, II, 641, 643. The report of the commission practically exonerated Buell, but laid his failure in 1862 in part to General Halleck. It was this report that could not be found when a Congressional committee called for it later.
16. Statement made to the author by one of Lew Wallace's relatives.

CHAPTER VIII—PART IV

1. *Appletons' Cyclopedia of American Biography* (D. Appleton-Century Company, New York, 1891), Vol. V, p. 33.
2. Original in the possession of the author.
3. "The Assassins of a President." From an unidentified Cincinnati paper (ca. 1900); courtesy of Mr. A. J. Walsmith, Oskaloosa, Iowa, and Mr. L. L. Swift, Cleveland Heights, Ohio.
4. *New York Times Magazine*, April 9, 1916.
5. This is not literally correct.
6. Letters in possession of Milton Ronsheim, Cadiz, Ohio, by whose courtesy they are quoted.
7. House of Representatives, 39th Congress, 2nd Session, Executive Document No. 9, p. 13.
8. *Ibid.*, pp. 14-15.
9. Laughlin: *The Death of Lincoln*, p. 236.
10. Wiechmann letters, courtesy of Milton Ronsheim, Cadiz, Ohio.

Addendum

After this manuscript had gone to press, Professor Paul H. Giddens of Allegheny College sent the author a reprint of an article, entitled "Benn Pitman on the Trial of Lincoln's Assassins", which was published in the July, 1940, issue of *Tyler's Quarterly Historical and Genealogical Magazine*. It appears that Pitman's reminiscences as reported here in Chapter VIII, Part IV, were originally published in *The Phonographic Magazine* in 1893, and were reprinted by courtesy of The Phonographic Institute Company, Greenville, Ohio, to whom credit should be given. Professor Giddens' article brings additional recollections of Benn Pitman and is well worth reading.

CHAPTER VIII—PART V

1. At the time of Wood's death a bill was before Congress to pay him \$15,000 for his services in the famous Brockway case, when Wood had captured the author of this noted 7.30 bond counterfeit, which had been so well executed that the bonds were passed as genuine even among banking houses. J. J. Williamson: *Prison Life in the Old Capitol* (West Orange,

- New Jersey, 1911), p. 34, footnote. Information verified by courtesy of Florence S. Hellman, Acting Chief Bibliographer, Library of Congress.
2. October 28, November 4, 1883. All quotations in this chapter, unless otherwise indicated, are from these issues of the *Washington Sunday Gazette*. Only two issues of the *Sunday Gazette* have been found, although the author has for years advertised for additional ones. It is not even known if Colonel Wood's articles were continued after the issue of November 4. Grateful acknowledgment for the copies now in the possession of the author is herewith made to Mr. C. M. Cochrane of Davenport, Iowa.
 3. Author's italics.
 4. One part of Colonel Wood's recollections refers to the impeachment of Andrew Johnson.

"President Johnson despised Stanton, and only spoke of him in the most bitter terms. He regretted the hanging of Mrs. Surratt, and understood and defied the crowd of politicians who were desirous of his impeachment . . .

"About this time Mr. Matchett [a fellow detective] called upon the writer with a message from Benjamin F. Butler, offering him \$30,000 to furnish evidence to aid in the impeachment. Mr. Stanton also sent for the writer and solicited his assistance for the impeachers. This was declined. Very soon after this President Johnson also sent for the writer, and, accompanied by a prominent citizen, he called upon the President, who desired him to do something adverse to the interest of Mr. Stanton. This was also declined, the writer assuring the President of his personal friendship with Stanton, and that he would consider it as great an outrage to do a wrong to Mr. Stanton . . . as to one of his own children. Instead of feeling offended Andrew Johnson rose from his seat and extended his hand, declaring that he admired such friendship . . . Andrew Johnson . . . proved too much for those twin political shysters, the Groton grocer [Boutwell] and the cockeyed political charlatan [Butler], both from the State of Massachusetts."

CHAPTER IX

1. Horace White: *The Life of Lyman Trumbull* (Houghton Mifflin Company, Boston, 1913), p. 197; *Photographic History of the Civil War*, Vol. VII, pp. 194, 196, et al.
2. John A. Marshall: *American Bastille* (Thomas W. Hartley & Co., Philadelphia, 1885 edition), pp. xiii; according to Adjutant General E. D. Townsend (*Anecdotes of the Civil War in the United States*, p. 50), Seward made this statement to General Winfield Scott. Holland Thompson in the *Photographic History of the Civil War* (VII, 196), casts doubt on the truth of the anecdote, although stating that it portrayed actual conditions.
3. *McClellan's Own Story* (Charles L. Webster, New York, 1887), pp. 146-148.
4. *Appletons' Cyclopaedia*, Vol. VI, p. 30.
5. *Photographic History of the Civil War*, VII, 196.
6. Bates: *Diary*, pp. 513-514. (Annual Report of the American Historical Association, 1930, Vol. IV. Edited by Howard K. Beale. Washington, 1933.)
7. O.R., Series II, Vol. II, pp. 221-223.

8. White, *op. cit.*, p. 197.
9. Morgan Dix: *Memoirs of John A. Dix* (Harper & Brothers, New York, 1883), Vol. II, pp. 43, 44.
10. *Ibid.*, p. 45.
11. *Ibid.*, p. 46.
12. James Ford Rhodes: *History of the United States, 1850-1877* (Macmillan Company, New York, 1919), IV, 169-170. See also the chapter "Behind the Scenes of the Conspiracy Trial", part 2, and DeWitt: *Assassination*, pp. 162-164.
13. Welles, *op. cit.*, I, 150.
14. Rhodes, *op. cit.*, IV, 236, 231-232.
15. Doster, *op. cit.*, pp. 126-127.
16. *Ibid.*, p. 129.
17. *Ibid.*, pp. 106-107.
18. *Ibid.*, pp. 112-113.
19. Welles, *op. cit.*, I, 321, 322.
20. Stewart Mitchell: *Horatio Seymour of New York* (Harvard University Press, Cambridge, 1938), p. 293; James G. Blaine: *Twenty Years of Congress, 1861-1881* (Henry Bill Publishing Company, Norwich, Conn., 1884), I, 490.
21. White, *op. cit.*, p. 205.
22. *Army and Navy Journal*, February 20, 1864, p. 409.
23. Carl Schurz: *Reminiscences* (Doubleday, Doran and Company, Garden City, N. Y., 1917), II, 319.
24. Rufus R. Wilson: *Washington the Capitol City* (J. B. Lippincott, Philadelphia, 1901), I, 138.
25. Appointment dated February 13, 1862, in possession of the author. Thomas Nelson Conrad (p. 27) claims that Wood was already superintendent of the Old Capitol prison in 1861. This is an error, for Conrad mentions that he was arrested through Stanton's orders.
26. Albert G. Riddle: *Recollections of War Times* (G. P. Putnam's Sons, New York, 1895), p. 308.
27. Marshall, *op. cit.*, p. 337.
28. Conrad, *op. cit.*, pp. 27, 32.
29. Marshall, *op. cit.*, 354.
30. *Ibid.*, p. 334.
31. Doster, *op. cit.*, p. 105.
32. *Ibid.*, p. 105.
33. Conrad, *op. cit.*, p. 29.
34. James Matlack Scovil: "Stanton, Lincoln's Secretary of War." (*Lippincott's Magazine*, October, 1914.) Author's italics.
35. Pitman: *Assassination*, p. 130.
36. O.R. Series II, Vol. V, p. 251.
37. O.R. Series II, Vol. IV, p. 670.
38. *Ibid.*
39. Doster, *op. cit.*, p. 128.
40. Charles F. Benjamin: "Recollections of Secretary Stanton" (*Century Magazine*, March, 1887, p. 762).
41. *Ibid.*, p. 759.
42. Scovil, *op. cit.*
43. Eisenschiml, *op. cit.*, pp. 453-456.

44. James D. McCabe, Jr.: *The Life and Public Services of Horatio Seymour: Together With a Complete and Authentic Life of Francis P. Blair, Jr.* (United States Publishing Co., New York, 1868), pp. 173, 176-177.
45. *Diary*, II, 67. July 5, 1864.
46. McCabe, *op. cit.*, pp. 178-179.
47. Blaine, *op. cit.*, I, 532.
48. McCabe, *op. cit.*, p. 195; Marshall, *op. cit.*, p. 562.
49. John A. Marshall, author of *American Bastille*.
50. McCabe, *op. cit.*, p. 203.
51. Riddle, *op. cit.*, p. 308.
52. *New York Tribune*, February 9, 1865.
53. Riddle, *op. cit.*, p. 309.
54. Rice, *op. cit.*, p. 383.
55. Dr. John B. Ellis: *The Sights and Secrets of the National Capital* (United States Publishing Co., New York, 1869), pp. 438-440.
56. Riddle, *op. cit.*, p. 308.

CHAPTER X

1. Riddle, *op. cit.*, p. 315.
2. Eisenschiml, *op. cit.*, p. 402.
3. Riddle, *op. cit.*, p. 316.
4. Francis Fessenden: *Life and Public Services of William Pitt Fessenden* (Houghton Mifflin Company, Boston, 1907), I, 230-231.
5. Riddle, *op. cit.*, p. 316.
6. *Ibid.*, p. 316.
7. *Ibid.*, p. 317.
8. *Ibid.*, p. 318.
9. *Ibid.*, p. 40.
10. *Ibid.*, p. 320.
11. *Ibid.*, pp. 352-353.
12. *Ibid.*, p. 311 and footnote.
13. *Ibid.*, p. 323, footnote.
14. Doster, *op. cit.*, pp. 114-115.
15. *Ibid.*, pp. 115-116.
16. *Ibid.*, p. 124.
17. Donn Piatt: "Edwin M. Stanton" (*The North American Review*, May, 1886), p. 467.
18. E. S. Nadal in *The Outlook*, February 9, 1916.
19. Heman Dyer: *Records of an Active Life* (Thomas Whittaker, New York, 1886), pp. 69-73, 143.
20. Doster, *op. cit.*, p. 52.
21. *Ibid.*, p. 121.
22. *Ibid.*, pp. 121-122.
23. John M. Thayer: "A Night With Stanton in the War Office." (*McClure's Magazine*, March, 1897.)
24. Benjamin, *op. cit.*, pp. 758, 759.
25. *Ibid.*, pp. 762-763.
26. Welles: *Diary*, II, 353, 357, 360, 361.
27. Benjamin, *op. cit.*, p. 768.
28. DeWitt: *The Judicial Murder of Mary E. Surratt*, p. 254.

29. Vol. II, pp. 303-304. (Hubbard Bros., Philadelphia, 1886.)
30. Quoted in E. D. Townsend: *Anecdotes of the Civil War*, p. 276. Townsend refers to Washington dispatches in the *Boston Herald* as his source. The dispatches are given as of April 16 and 21, 1879. No such dispatches were found in the files of the *Herald* on the dates when they should logically have appeared. (By courtesy of Mr. F. Lauriston Bullard and Mr. Richard H. Kuhlke, Boston.)
31. *Ibid.*, p. 277.
32. *Ibid.*, pp. 277-278.
33. *Ibid.*, pp. 278-279.
34. *Ibid.*, p. 141.
35. Bates: *Lincoln in the Telegraph Office*, p. 397.

CHAPTER XI

1. In 1866 the Pope was still ruler of an independent state of which Rome was the center and the capital. The King of Italy, whose territory surrounded the Papal Domains, had his court in Florence. The American government had diplomatic representatives of equal rank in both capitals.
2. House of Representatives, 39th Congress, 2d Session, Ex. Doc. No. 9, p. 7 (Rome, April 23, 1866).
3. *Ibid.*, pp. 8, 9.
4. *New York Times*, February 16, 1867.
5. According to some reports he was stationed at Velletri, and his stay at Veroli was only temporary. See the otherwise improbable account given in *The Engineer Corps of Hell* (Compiled and translated by Edwin A. Sherman, San Francisco, 1883), pp. 227-230.
6. House of Representatives, Ex. Doc. No. 9, p. 17 (August 8, 1866); Eisen-schimi, *op. cit.*, p. 204.
7. House of Representatives, Ex. Doc. No. 9, p. 20.
8. *Ibid.*, pp. 28, 29.
9. *Ibid.*, p. 28.
10. *Ibid.*, p. 21.
11. Barclay & Co. (Philadelphia, 1867): *Life, Trial and Extraordinary Adventures of John H. Surratt* (hereafter referred to as Barclay), p. 39.
12. House of Representatives, Ex. Doc. No. 9, pp. 27, 28.
13. *Ibid.*, p. 21.
14. *Surratt Trial*, I, 485. When Surratt arrived in Washington, he still was dressed in the same uniform, which *Harper's Weekly* (March 9, 1867, p. 149) described as "of light-gray, trimmed with red scarlet fez, with blue tassel, scarlet sash around his waist, and white leggings."
15. House of Representatives, Ex. Doc. No. 9, p. 25.
16. *Ibid.*, p. 22.
17. *Ibid.*, p. 23.
18. *Ibid.*, p. 26.
19. The records of the hospital at Sora were destroyed in an earthquake in 1915, and an effort to find out if Surratt was treated there and what his injuries were has therefore been unsuccessful.
20. House of Representatives, Ex. Doc. No. 9, p. 27.
21. *Ibid.*

22. House of Representatives, 39th Congress, 2d Session, Report No. 33, p. 8.
23. Barclay, *op. cit.*, p. 39.
24. House of Representatives, 2d Session, 39th Congress, Ex. Doc. No. 25, p. 16; DeWitt: *Assassination*, p. 191.
25. House of Representatives, Ex. Doc. No. 25, p. 2.
26. *Ibid.*, p. 6.
27. *Ibid.*, p. 3.
28. *Ibid.*, p. 7.
29. *Ibid.*, p. 8. Author's italics.
30. Reprinted in the Denver *Evening Post*, April 9, 1898.
31. There is today at the foot of this precipice no village, with or without wall, nor is there any recollection of such a settlement among the inhabitants and local historians. The Surratt episode is locally unknown. There is, however, a legend of a French soldier who jumped to his death because of a love affair.
32. George DeForest Barton, in the New York *Sun*, May 20, 1916.
33. House of Representatives, Ex. Doc. No. 25, p. 14.
34. DeWitt: *Assassination*, p. 191.
35. House of Representatives, Ex. Doc. No. 25, p. 18.
36. *Ibid.*, pp. 5, 6, November 19, 1866.
37. November 24, 1866; reprinted in the New York *Times*, November 26, 1866.

CHAPTER XII

1. House of Representatives, Report No. 33, p. 15.
2. *Ibid.*, p. 16.
3. New York *Sun*, May 20, 1916.
4. Eisenschiml, *op. cit.*, pp. 199-206.
5. Welles: *Diary*, III, 29 (January 25, 1867).
6. O.R. Series I, Vol. 46, part 3, pp. 1141-1142.
7. Dix, *op. cit.*, II, 43, 44; *Appletons' Cyclopedia*, Vol. V, p. 16.
8. *Appletons' Cyclopedia*, Vol. V, p. 248; Riddle, *op. cit.*, pp. 332, 340, footnote.
9. Conover had been a government witness in the conspiracy trial and was then in prison, having been found guilty of perjury.
10. Welles, *op. cit.*, III, 170. Author's italics.
11. *Ibid.*, p. 143, footnote.
12. *Ibid.*, p. 171.
13. Charles B. Lore: "The Life and Character of George P. Fisher" (*Papers of the Historical Society of Delaware*, Vol. XXXV), p. 12.
14. *Diary*, III, 167.
15. Springfield (Mass.) *Daily Republican*, January 28, 1867.
16. Frederick W. Seward: *Reminiscences of a War-Time Statesman and Diplomat, 1830-1915* (G. P. Putnam's Sons, New York, 1916), pp. 346-351.
17. DeWitt: *Assassination*, p. 191.
18. *Surratt Trial*, II, 767.
19. Welles, *op. cit.*, III, 31.
20. *Surratt Trial*, II, 767.

21. George Fort Milton: *The Age of Hate* (Coward-McCann, New York, 1930), p. 413.
22. *Ibid.*

CHAPTER XIII—PART I

1. Barclay, *op. cit.*, p. 43.
2. *Ibid.*
3. Reprinted in the *Washington Daily Morning Chronicle*, May 21, 1867.
4. *American State Trials*. Edited by John D. Lawson (Thomas Law Book Company, St. Louis, 1918). Vol. IX, p. 2.
5. Welles, *op. cit.*, III, 452. The relationship between Stanton and Pierrepont was very intimate. When Stanton was on his sick-bed in 1869, Pierrepont raised a subscription of \$100,000 for him and presented it in person to the ex-War Minister. Stanton was overcome by the generosity of his friends, but said he could accept no "gratuities". At Stanton's funeral, Pierrepont acted as one of his pall-bearers. (Frank A. Flower: *Edwin McMasters Stanton*. Saalfeld Publishing Co., Akron, Ohio, 1905; footnote to p. 411, p. 409.)

Gideon Welles, although unfriendly to Pierrepont, evidently entertained the highest respect for his abilities. At one time (January 4, 1865—see *Diary*, Vol. II, p. 220), he was confronted with a difficult case of naval frauds. Calling on Lincoln, he expressed the desire to get the best lawyer obtainable, as "the defense had secured Evarts and Pierrepont . . ."

6. *Appletons' Cyclopaedia*, Vol. V, p. 16.
7. Carrington papers. The district attorney in charge of the Surratt case was a man of considerable wealth and accomplishments. In 1861 he equipped at his own expense a company numbering eighty muskets (it later grew to 116), and his soldiers were admired for their handsome appearance. Their uniforms were gray, with a black stripe down the outside of the pants, and they wore glazed caps and yellow facings.

Carrington's enemies charged that behind this act of patriotism there lay the desire for political advancement. In a public meeting, prior to the outbreak of hostilities, he met this accusation indignantly. He said that such a report had no foundation in fact, and denounced its disseminator as a slanderer and a liar. The records would show, he said, that no one bearing his full name had ever held any position under the government, except in the army or navy, and then only in time of actual service. He wanted peace and union. With these, there would be no necessity for seeking appointment to a public office.

Nevertheless, when the position of district attorney was offered to him he accepted it, and let his company go to war without him. His nomination did not go through without opposition. Browning reported in his diary on July 27, 1861 (Orville Hickman Browning: *Diary, 1850-1864*, Illinois State Historical Society, Springfield, 1933, I, 487), that they had "rejected the nomination of Carrington for Atto of the District on the statements of Senators Willson [Henry Wilson of Massachusetts] and Bingham [Kinsley S., of Michigan] that several years ago a negro man who, by law, was entitled to his freedom had been kidnapped here [in Washington] and taken to Alexandria—that a purse was raised by contribution, and paid to Carrington to assert his right to freedom, and . . . that he pocketed the money

...” These charges were evidently disproved or withdrawn, for there remained no blot on his name in after years.

Lincoln’s Attorney General, Bates, who had been Carrington’s sponsor, retired in 1864, and the latter became uneasy; he sought to fortify his position by all the political influence at his command, as shown by a letter from the Reverend J. Breckinridge to the new Attorney General, James Speed.

Danville, Ky., Dec. 22, 1864.

Honorable James Speed,

Att’y Genl of the U. S.

Dear Sir:

Genl Edward C. Carrington, District Attorney of the U.S. for the District of Columbia, felt some solicitude, on the retirement of my old friend Judge Bates, for the continuance of his own office; and addressed a note to me . . . on the subject. I had the authority of Judge Bates himself, . . . that of all the District Attornies, he esteemed Genl Carrington to be the most prompt, and efficient. . . I could not hesitate to commend him warmly to you.

Another recommendation for Carrington came from Judge A. B. Olin and was in the form of a letter to Senator Harris of New York.

Carrington claimed to have been stabbed twice by unknown enemies in the dark during the terms of his office. Besides these enemies he had others in the Senate, and it was only through the influence of Senator Ten Eyck of New Jersey that he was confirmed, after serious charges had been made against him in secret hearings.

In 1869 Carrington retired to an elegant farm called “Charlton Heights”; but his energy soon made him restless and he became corporation counsel for the town of Bladensburg. Later he moved back to Washington where he engaged in private practice of law.

8. Pages 332, 340.
9. War Department Archives. Bradley to Colonel Burnett, May 9, 1865.
10. *Appletons’ Cyclopedia*, Vol. IV, p. 305; Milton, *op. cit.*, p. 522; Welles, *op. cit.*, Vol. III, p. 333.
11. *Surratt Trial*, II, 1145.
12. F. Lauriston Bullard: “Lincoln and the Courts of the District of Columbia”. (*American Bar Association Journal*, February, 1938.)
13. *American State Trials*, Vol. IX, p. 2.
14. Isaac N. Surratt, John’s brother, whose presence in court had been noted by the press, had come back to the United States in 1866. His departure from Monterey, Mexico, had not remained unnoticed. General Sheridan, then stationed at New Orleans, had advised the War Department of Surratt’s impending return “to Washington to assassinate President Johnson”; a description of the suspected man followed. Instead of setting foot in Washington, however, for the nefarious program outlined for him, Isaac Surratt went to Baltimore where he lived quietly and inoffensively ever after.
15. *Surratt Trial*, II, 960.
16. David Rankin Barbee in the *Washington Post Magazine*, May 6, 1934, p. 15.
17. *Surratt Trial*, I, 14.
18. *Ibid.*, p. 18.

19. *Ibid.*, p. 33.
20. June 14, 1867.
21. *Surratt Trial*, I, 78, 79.
22. *Ibid.*, p. 83.
23. *Ibid.*, p. 84.
24. *The Reporter*, July 3, 1867, p. 1. (A periodical devoted to religion, law, legislation and public events. Conducted by R. Sutton, Chief of the Official Corps of Reporters of the U. S. Senate, Washington, D.C.)
25. Springfield (Mass.) *Daily Republican*, June 18, 1867.
26. *Surratt Trial*, I, 433-436 (June 29).
27. New York *Tribune*, November 3, 1883.
28. On February 27, 1859, Daniel E. Sickles, Congressman from New York City, and subsequently a major general in the war, shot and killed Phillip Barton Key, district attorney of the District of Columbia, son of the author of "The Star Spangled Banner" and nephew of Chief Justice Taney of the Supreme Court. The shooting took place in the center of Washington in broad daylight and created a tremendous sensation. Sickles, defended by Edwin M. Stanton, pleaded the unwritten law and was acquitted.
29. Unidentified newspaper clipping in the Carrington papers, in the possession of the author.
30. Barclay, *op. cit.*, p. 44.
31. Browning, *op. cit.*, II, 126.
32. New York *Times*, April 8, 1867.
33. *Surratt Trial*, I, 118, 119, 120.
34. Eisenschiml, *op. cit.*, pp. 26-27. Rathbone's mind had probably been affected by the murder he had witnessed in Ford's Theatre. His lawyer, Colonel James G. Berrett of Washington, D.C., thought that the young officer never fully recovered from the shock.

"The scene always haunted his mind," Berrett declared in an interview in the *Washington Star*, December 29, 1883 (reprinted in the *New York Times*, December 30, 1883).

On July 11, 1867, Major Rathbone married Miss Clara Harris, who, as his fiancée, had been his companion on that fatal night. According to ex-Senator Hamilton Harris (New York *Tribune*, December 31, 1883), Rathbone's presence at the playhouse was accidental.

"... Pres[ident]. Lincoln was taken ill," he remembered, "on the afternoon of the performance. Mrs. Lincoln thought she would be compelled to occupy the theatre box alone, and therefore asked Clara Harris to accompany her . . . In the meanwhile the theatrical managers came to Mr. Lincoln, and begged him to go, telling him that the entertainment would be a failure if he did not, as Gen. Grant and Mr. Stanton would not be present. Mr. Lincoln good-naturedly consented to go. He and his wife went to get Miss Harris; and finding Major Rathbone at her home invited him to accompany them. . . ."

In later years Rathbone was greatly troubled with dyspepsia. In November, 1882, he visited his step-uncle and described to him the horrors of that disease. Shortly afterward he and his family left for a trip to Europe. There was a daughter aged about fifteen and two younger boys; the company also included a sister of Mrs. Rathbone and a nurse who had been with the children for many years.

On the night of December 23, 1883, while in Hanover, Germany, Rathbone suddenly attacked and killed his wife in a fit of temporary insanity. He then attempted suicide, but recovered. The details of this family drama created a sensation. It appeared that Rathbone had not been able to sleep all night because of his affliction. About six o'clock in the morning he arose, grabbed a revolver and a dagger from under his pillow, and tried to enter the children's bedroom. At that moment his wife woke up and caught up with him just in time to shout a warning to the nurse to lock all doors, that "there is going to be dreadful work." Furious at having been thwarted, the insane man turned on his wife and dragged her back into their bedroom.

Miss Harris, aroused by the struggle, arrived just in time to hear her sister beg pitifully, "Henry, let me live." Then shots were fired, and when the door was broken open Mrs. Rathbone was found on the bed, covered with blood. She merely whispered, "he has killed us both at last," and expired. She had received two pistol shots in the breast, but the fatal wound had been inflicted by a dagger piercing her lung. Rathbone was lying on the floor, near a porcelain stove, conscious, although severely injured by five self-inflicted thrusts from the dagger. He asked for brandy, said he was badly hurt, and exclaimed: "Who could have done this? I have no enemies." He then called piteously for his wife.

Afterward Rathbone remembered what he had done. He claimed great provocation. The children, he said, had been about to leave him, and persons were hidden behind the pictures in the room. It was a clear case of insanity, and Rathbone was taken to the hospital for the criminally insane at Hildesheim, where he lived until 1911.

35. Laughlin: *The Death of Lincoln*, p. 289.

36. C.T., I, 195.

37. *Surratt Trial*, I, 124.

38. *Ibid.*, I, 151.

39. *Ibid.*, p. 135.

40. *Ibid.*, p. 551.

41. *Ibid.*, p. 156.

42. *Ibid.*, pp. 661-662.

43. *Ibid.*, p. 667.

44. See chapter, "Problems Solved and Unsolved", section, "When Was Lincoln Shot?"

45. *Surratt Trial*, II, 1190.

46. *Ibid.*, I, 158, 159.

47. *Ibid.*, pp. 158, 161.

48. *Ibid.*, p. 227.

49. *Ibid.*, p. 162.

50. *Ibid.*, p. 164.

51. War Department Archives.

52. House of Representatives, 1st Session, 39th Congress, Report No. 99 (July 24, 1866), p. 2.

53. *Surratt Trial*, II, 1193. Author's italics.

54. *Ibid.*, p. 1120.

55. *Washington Sunday Gazette*, November 4, 1883.

56. *Surratt Trial*, I, 164.

57. *Ibid.*, p. 191. Author's italics.

58. *Ibid.*, p. 219.
59. *Ibid.*, p. 220.
60. *The Reporter*, July 10, 1867, p. 3.
61. *Surratt Trial*, I, 117.
62. *Ibid.*, p. 168.
63. *Ibid.*, pp. 176-177.
64. *Ibid.*, p. 196.
65. *Ibid.*, p. 611.
66. *Ibid.*, p. 197.
67. Eisenschiml, *op. cit.*, pp. 166-172.
68. *Surratt Trial*, I, 210.
69. *Ibid.*, pp. 241-242.
70. *Ibid.*, pp. 632-633.
71. *Ibid.*, pp. 244, 246.
72. Barclay, *op. cit.*, pp. 51, 54, 56, 69, 71, 87.
73. *Surratt Trial*, I, 471-472; Dr. L. J. McMillan in Report No. 33, House of Representatives, 39th Congress, 2nd Session, p. 13 (published March 2, 1867).
74. *Surratt Trial*, II, 1235. (August 2, 1867.)
75. Laughlin: *The Death of Lincoln*, pp. 238-239.
76. Riddle papers in the collection of the Western Reserve Historical Society, Cleveland.
77. *Surratt Trial*, I, 494-498.
78. *Ibid.*, pp. 499-500.
79. *Ibid.*, II, 1187-1188.
80. *Ibid.*, I, 501.
81. *Ibid.*, pp. 521-522.
82. *Impeachment Investigation*, pp. 783-784. John Matthews' testimony, had it been admitted, would have carried great weight. It was he to whom Booth had spoken as he bent down from his horse on Pennsylvania Avenue and Thirteenth Street on the afternoon of April 14. This proved that two respectable government witnesses had been mistaken when they testified that Surratt was the man with whom the assassin had conversed. Booth had handed Matthews a letter for the *National Intelligencer*, and this letter, which Matthews had burned after having committed it to memory, clearly exonerated the prisoner. His testimony had been given before the Impeachment Investigating Committee a few weeks before; the letter had borne the signature of four conspirators only—Booth, Herold, Atzerodt and Paine. The conclusion was obvious: Surratt had no longer been a member of the conspiracy on the day of Lincoln's murder. The government objected to the introduction of this testimony, but Mr. Bradley fought for its admission.

"The prosecution," he argued, "had produced Booth's diary to show that the murder was decided upon on April 14 . . . can the defence then be precluded from offering the agreement to murder, in which the name of the prisoner does not appear?"

Judge Fisher ruled differently, however, and added that "It might have been the very object of conspirators to thus screen some of the parties . . ." (*Surratt Trial*, II, pp. 823, 824.) It was a happy thought, and one which had occurred to neither Mr. Pierrepont nor Mr. Carrington; or perhaps they had hesitated to advance such a far-fetched theory.

83. *Surratt Trial*, I, 523.

84. *Ibid.*, pp. 525-526.

85. *Ibid.*, p. 326.

86. *Ibid.*, p. 468.

87. *Ibid.*, p. 469.

88. The alleged assault by Mr. Bradley, senior, on Judge Fisher was pictured by the press in rich colors. What actually took place is perhaps best described by the *Washington Chronicle* of July 3, 1867. The *Chronicle* was extremely, almost abusively hostile to Bradley throughout the trial, and its very moderate version should therefore command attention.

The account published in the evening papers of yesterday of a rencontre between Judge Fisher and Messrs. Bradley, Sr. and Jr., was incorrect in several particulars. The facts, as we glean them, on reliable authority, are substantially as follows: After the adjournment of the court Judge Fisher had returned to get an umbrella which he had left behind, and on descending from the bench he encountered Mr. Bradley, looking in no very amiable mood, standing at the foot of the steps. Without noticing Mr. B.'s scowling aspect, the Judge remarked to him that he thought he had seen the witness St. Marie before as a member of a Delaware regiment, and inquired if he did not think the witness was from that State.

Mr. Bradley replied shortly that he did not know and did not care anything about him, and proceeded to ask Judge Fisher why he kept insulting him all the time. Judge Fisher replied that he was not aware of having done so, to which Bradley responded that he had, and that he had been repeatedly doing so ever since the commencement of the present trial, "and," added he, "I'm not going to stand it any longer," accompanying this declaration with a menacing movement forward. Judge Fisher placed himself in an attitude for resistance, and remarked that he was ill at present, but notwithstanding, if Mr. B. desired any satisfaction he might take it. Mr. Bradley remarked that he was an older man than the judge, to which the latter replied, "Well, we'll set your age against my illness." "Yes," said Bradley, "but you'll commit me." Judge Fisher replied that he would waive the prerogative of his position and meet him as a man; that he could take satisfaction then and there, or if not disposed to do so, that he knew where to find him, and could meet him at a future time.

Mr. Bradley making no further hostile demonstration the Judge passed on into the marshal's office, whither he was followed somewhat precipitately by Mr. J. H. Bradley, Jr. "Are you looking for me?" inquired Judge Fisher. Mr. Bradley responded that he had come to prevent any difficulty between him (the Judge) and his father. Judge Fisher remarked that he had suspected at first that he was coming for a different purpose, and extending his hand said, "I am glad to find you such a sensible young man." The hand shaking between the two at this time was all the shaking done in the case, and the story to the contrary published in the evening papers must have been based on the sensational reports to which an affair of this kind always gives rise. The story about

the locking up of Judge Fisher in the marshal's room must have had a similar origin, for it has no foundation in fact. There was no physical force used in the case—nothing beyond words, looks, and threatening gestures, and there was no separation of angry would-be combatants by outside parties.

Bradley's action was doubtless occasioned by resentment on account of the much-needed admonition given to the counsel for the defence yesterday morning by Judge Fisher, when the passage at arms between Mr. Merrick and the witness, McMillen, on Monday, was under consideration.

Immediately after the jury was discharged, Judge Fisher read a statement ordering Bradley's name stricken from the rolls of attorneys practising in the District Court. No sooner had this pronouncement been read, when Bradley was on his feet and asked if court had adjourned. Told that it had not, he pronounced the judge's statement as utterly false in every particular.

A tumultuous scene ensued. Judge Fisher sought refuge in a street car, but Bradley followed and handed him a note which was understood to contain a challenge.

The order of Bradley's disbarment created intense excitement. Members of the Washington bar were bitter in their denunciation of the judge and called a protest meeting. It was held that Fisher had disgraced himself by using his official power in resentment of a personal insult. Gideon Welles also thought that it was an arbitrary and regrettable act. (Welles: *Diary*, III, 167; Barclay, *op. cit.*, pp. 134-135.)

Nevertheless, Bradley remained disbarred from practice until 1874. He was offered reinstatement if he would apologize to Judge Fisher, but this he refused to do. The matter was taken to the Supreme Court. Bradley also sued the justice for damages; but neither of these actions brought results. The death of Bradley's son, which occurred in 1874, seemed to soothe the ruffled feelings of the judiciary. At any rate, Bradley was readmitted to the bar at that time.

Judge Fisher remained on the bench until 1870, when he took over Carington's position as United States Attorney for the District of Columbia. During President Harrison's administration he became First Auditor of the Treasury Department. He died in Washington in 1889, in his eighty-second year. (Job Barnard: "Early Days of the Supreme Court of the District of Columbia", *Records of the Columbia Historical Society*, 1919. Also DeWitt: *Assassination*, p. 291.)

89. *Surratt Trial*, I, 492.

90. House of Representatives, Ex. Doc. No. 9, pp. 14-15. Author's italics.

91. *Ibid.*, p. 17; *Diplomatic Correspondence*, 1867, No. 1, part 1, House Documents, 40th Congress, 2d Session, p. 697.

92. House of Representatives, Ex. Doc. No. 36, p. 1, October 11, 1867.

93. *Ibid.*, p. 2.

94. Appendix to the *Congressional Globe*, 40th Congress, 2d Session, Vol. 39, part 5, p. 602 (July 27, 1868).

95. House of Representatives, Report No. 33, p. 17.

96. Reprinted in the *Cincinnati Commercial*, July 7, 1867.

97. June 28, 1867.

98. Reprinted in the Springfield (Mass.) *Daily Republican*, June 25, 1867.

CHAPTER XIII—PART II

1. Twenty-two years after the Surratt trial, Carrington wrote a letter to the Halifax (Virginia) *Record* (November 14, 1889. Author's italics.). In this communication he almost apologized for his part in the case and admitted its weakness.

" . . . John H. Surat [Surratt]," he said, "was indicted . . . I being the United States Attorney at the time endeavored to discharge my duty and prosecuted him to the best of my ability. . . . Surat was defended with marked ability by the late Joseph H. Bradley, Esq., and the late Richard Merrick. There was no evidence that Surat was actually present when the murder was committed; and the evidence was conflicting, whether he was in Washington city or New York at the time, *the weight of the evidence being that he was in New York* . . . While the case was doubtful, it was eminently one where the United States Attorney was expected to do his best. . . ."

2. *Surratt Trial*, I, 542, 543.
3. *Ibid.*, I, 725; II, 729.
4. *Ibid.*, II, 730.
5. *Ibid.*, p. 736.
6. Barclay, *op. cit.*, p. 81.
7. Interview of 1898, reprinted in the *Denver Evening Post*, April 9, 1898.
8. *Surratt Trial*, II, 1040.
9. Laughlin, *The Death of Lincoln*, p. 238, 239, 240. In Surratt's version of his flight, as reported by him in a lecture at Rockville, Maryland, in 1870, he makes one statement which strains the credulity of the reader. Describing the excitement at Elmira when the news of Lincoln's assassination became known, he related:

. . . I did not think that I was in danger, and determined to go immediately to Baltimore to find out the particulars of the tragedy. . . . As there was no train going south that evening, I concluded to go to Canandaigua and from there to Baltimore by way of Elmira and New York.

Leaving aside the possibility of a typographical error, there appears to be no reason why Surratt should have chosen to go to Baltimore by way of Canandaigua. These two cities are in opposite directions from Elmira, Baltimore lying southeast and Canandaigua northwest. Canandaigua is on the straight route to Canada, and Canada was the place for which Surratt was most likely bound, even before he saw his name mentioned in a newspaper.

10. Benjamin, *op. cit.*, p. 766.
11. Compiled by the author from the *Surratt Trial* testimony, pp. 772, 774, 1028, etc.
12. Ordinarily this run was made in three hours.
13. *Surratt Trial*, II, 1028.
14. *Ibid.*, p. 1025.
15. *Ibid.*, p. 1196.
16. *Ibid.*, p. 1197.
17. *Ibid.*
18. *Ibid.*, pp. 1194-1195. Author's italics.

19. *Ibid.*, pp. 1343-1344.
20. *Ibid.*, p. 1117.
21. *Ibid.*, II, 768.
22. Laughlin, *The Death of Lincoln*, pp. 240-241.
23. *Surratt Trial*, II, 770.
24. *Ibid.*, pp. 867, 871.
25. *Ibid.*, p. 813.
26. *Ibid.*, p. 896.
27. Riddle, *op. cit.*, p. 340, footnote.
28. *Surratt Trial*, II, 1254-1256.
29. War Department Archives.
30. DeWitt, *Assassination*, p. 199.
31. Pitman, *Assassination*, pp. 420-421.
32. *Surratt Trial*, II, 892.
33. *Ibid.*, I, 689.
34. *Ibid.*, p. 690.
35. *Ibid.*, II, 747.
36. *Ibid.*, pp. 746-747.
37. *Ibid.*, I, 715-716.
38. *Ibid.*, II, 748.
39. Barclay, *op. cit.*, p. 69.
40. *Surratt Trial*, I, 438.
41. Pitman, *Assassination*, p. 133.
42. *Surratt Trial*, I, 441.
43. *Ibid.*, pp. 455-456.
44. *Ibid.*, p. 157.
45. *Ibid.*, p. 171.
46. *Ibid.*, p. 179.
47. Eisenschiml, *op. cit.*, pp. 245-246; *Surratt Trial*, I, pp. 526, 529.
48. *Surratt Trial*, I, pp. 523-524.
49. *Ibid.*, II, 1232. A peculiar feature of the Surratt trial was the appearance on the witness stand of two prominent lawyers—Judge A. B. Olin, one of the justices of the court of the District of Columbia, and defense counsel Bradley, junior. Both of them made gross errors in their testimony and had to go on the stand a second time in order to correct themselves.

Judge Olin testified that he had found remains of plaster and wood shavings on the floor of the Presidential box at Ford's Theatre (*Surratt Trial*, I, 519). The defense confronted him with his testimony at the conspiracy trial which was in direct contradiction to his more recent statements. He admitted the discrepancy and remarked that his earlier testimony had probably been closer to the truth.

"... it is quite possible that I am mistaken as to what I testified to the other day," he said (*Surratt Trial*, II, 786).

Mr. Bradley, junior, made a mistake in the date on which he had visited Canandaigua and had to change it after the prosecution had called his attention to it (*Surratt Trial*, II, 765, 789).

The influence of these errors on the jury must have been curious. If members of the bench and the bar could make such misstatements under oath, how much value was to be attached to the recollections of witnesses whose minds lacked legal training and who, besides, had to contend with

the unusual excitement of a crowded courtroom and the pressure of acrimonious cross-examination?

50. *Ibid.*, pp. 1075, 1090. General T. M. Harris, in his biased book, *The Assassination of Lincoln*, could not refrain from commenting on the Surratt trial. Having served as one of the members of the military commission, he was naturally interested in the outcome of what was to a certain extent a repetition of the conspiracy trial. General Harris' remarks are of interest only because they show how far prejudice can blind the judgment of men; at any rate, no more one-sided résumé of the proceedings could have been produced, even by one of the counsel for the prosecution.

One quotation from this lengthy digest will suffice to illustrate his methods of deduction.

. . . even if we admit that he [Surratt] was at Elmira . . . on the night of the assassination, . . . he is not by this admission disconnected with the conspiracy, but was by his own admission acting there in the interest of its purposes by setting at large the five thousand rebel prisoners held there . . . The effort to aid the rebellion by this step was contingent upon the accomplishment of all of the assassinations that had been planned. . . . If he was there, he was there in the interest of the conspiracy. . . .

To this rare example of logic General Harris added one statement which was undoubtedly true.

. . . the result of the trial of one of the conspirators before a civil court . . . vindicates its [the government's] wisdom in sending these prisoners [in 1865] before a military tribunal for trial (Harris, *op. cit.*, pp. 311, 314).

51. *Surratt Trial*, II, 1146.
 52. *Ibid.*, p. 1237.
 53. *Ibid.*, p. 1076.
 54. *Ibid.*, pp. 1161-1162. Author's italics.
 55. *Ibid.*, pp. 1375-1376. Author's italics.
 56. *Ibid.*, pp. 1067, 1071.
 57. *Ibid.*, p. 1073.
 58. *Ibid.*, pp. 1085, 1092.
 59. *Ibid.*, pp. 1157, 1160, 1208.
 60. *Ibid.*, p. 1209.
 61. *Ibid.*, p. 1211.
 62. *Ibid.*, pp. 1221, 1227, 1233.
 63. *Washington Daily Morning Chronicle*, August 7, 1867.
 64. *Surratt Trial*, II, 1259.
 65. *Ibid.*, p. 1260.
 66. *Ibid.*, p. 1365.

CHAPTER XIII—PART III

1. *Surratt Trial*, II, 1368, 1369.
 2. *Ibid.*, p. 1370.
 3. *Ibid.*, pp. 1373, 1374. Author's italics.
 4. *Ibid.*, pp. 1374, 1375, 1376, 1377. Author's italics.
 5. *Ibid.*, p. 1378. Author's italics.

6. *Ibid.*, I, 64, 75, 76, 77, 90, 92, 98, 100, 105, 109.
7. Barclay, *op. cit.*, p. 133.
8. New York *Tribune*, August 10, 1867.
9. August 9, 1867.
10. Barclay, *op. cit.*, p. 134.
11. *Ibid.*, pp. 135-136.
12. Published August 24, 1867, but probably written on or about August 8.
13. August 9, 1867.
14. August 10, 1867.
15. August 13, 1867.
16. *American State Trials*, Vol. IX, pp. 2, 3.
17. Statement to the author by Mrs. Penn of Clinton (formerly Surrattsville), Maryland.
18. David Rankin Barbee in the *Washington Post Magazine*, May 6, 1934, p. 15.
19. Laughlin, *Traveling Through Life*, p. 109.
20. J. Friend Lodge: *A Recollection of John H. Surratt Fifty Years After*.
21. Barbee, *op. cit.*

CHAPTER XIV

1. Diary of Doctor Taft, used by courtesy of Dr. A. S. W. Rosenbach, Philadelphia; see also New York *Times*, April 15, 1937.
2. Newspapers in possession of the author and in the collections of the Newberry Library, Chicago, the Chicago Historical Society, the Chicago Public Library, the University of Chicago Library and the Lincoln National Life Foundation at Fort Wayne, Indiana, by whose courtesy they are used.
3. O.R., Series I, Vol. 46, part 3, p. 780.
4. *Ibid.*, pp. 744, 745, 784.
5. C.T., I, 16.
6. *Surratt Trial*, I, 118.
7. Diary of Doctor Taft.
8. C.T., I, 410.
9. *Ibid.*, I, 181-182.
10. *Surratt Trial*, I, 566.
11. *Ibid.*, I, 571. The "ball" was the noon signal given by the Washington Naval Observatory.
12. J. E. Buckingham: *Reminiscences and Souvenirs of the Assassination of Abraham Lincoln* (Rufus H. Darby, Washington, 1894), p. 80.
13. Letter to the author from Mr. J. William Downing, Acting Inspector of Buildings, District of Columbia, March 23, 1933.
14. C.T., II, 532.
15. Pitman, *Assassination*, p. 390.
16. Harris, *op. cit.*, p. 39.
17. Laughlin, *The Death of Lincoln*, p. 290.
18. New York *Tribune*, April 17, 1865.
19. E. R. Shaw: "Assassination of Lincoln" (*McClure's Magazine*, December, 1908).
20. Most likely the *Washington Chronicle*.
21. (The Robert Clarke Company, Cincinnati, 1900) p. 166.
22. *Century Magazine*, April 1896, p. 899.
23. Laughlin, *The Death of Lincoln*, p. 96.

24. DeWitt: *Assassination*, p. 48.
25. *National Republic*, February 1928. By courtesy of the Lincoln National Life Foundation, Fort Wayne, Indiana.
26. "Abraham Lincoln's Last Hours" (*Century Magazine*, February, 1893), p. 634. When Doctor Taft was an elderly man, he told a reporter the height of the box from the stage had been ten feet. (Unidentified newspaper clipping.)
27. Oldroyd, *op. cit.*, p. 19.; William H. Herndon: *Life of Lincoln* (Belford, Clarke & Co., Chicago, 1889), III, 567.
28. "Abraham Lincoln" (*Century Magazine*, January, 1890), p. 434.
29. Doctor Taft's Diary; Laughlin, *The Death of Lincoln*, p. 295.
30. C.T., II, 540, 541.
31. *Surratt Trial*, I, 256.
32. Pitman, *Assassination*, p. 100.
33. Flower, *op. cit.*, p. 279.
34. Eisenschiml, *op. cit.*, p. 165.
35. Unidentified article signed by James B. Morrow.
36. Laughlin, *The Death of Lincoln*, p. 229.
37. In possession of the Chicago Historical Society and of the Studebaker Corporation (South Bend, Indiana), respectively.
38. United States Weather Bureau.
39. Laughlin, *The Death of Lincoln*, p. 229.
40. Arnold, *op. cit.*
41. Pitman, *Assassination*, p. 118.
42. *Ibid.*, p. 46 (testimony of G. W. Bunker).
43. Eisenschiml, *op. cit.*, pp. 45-46.
44. Author's italics.
45. *Surratt Trial*, I, 174, 175.
46. *Ibid.*, pp. 236-237.
47. *Ibid.*, p. 676.
48. *Ibid.*, p. 683.
49. *Ibid.*, II, 1209.
50. Baker, *op. cit.*, pp. 555, 556. Author's italics.
51. *Ibid.*, pp. 558, 559. Author's italics.
52. *Surratt Trial*, I, 237.
53. *Ibid.*, I, 188, 189, 584, 662, 667; II, 984, ff., 1033, 1182.
54. *Ibid.*, I, 577.
55. *Ibid.*, p. 578.
56. *Ibid.*, p. 579.
57. *Loc. cit.*
58. *Ibid.*, II, 1012, 1014.
59. *Ibid.*, I, 527.
60. *Ibid.*, II, 1022.



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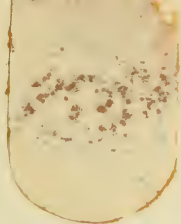
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THIS BOOK SET IN LINOTYPE JANSON
TYPOGRAPHY BY JOHN FASS
JACKET DESIGNED BY CARL COBBLEDICK
PRINTED BY THE CORNWALL PRESS, INC.
CORNWALL, N. Y.
BOUND BY J. F. TAPLEY COMPANY
LONG ISLAND CITY, N. Y.



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